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NEW JERSEY DEPARTMENT OF  
AGRICULTURE - SOIL PROTECTION  
STANDARDS PUBLIC HEARING

September 27, 2023

STATE SHORTHAND REPORTING SERVICE, INC.  
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STATE SHORTHAND REPORTING SERVICE, INC.

## 1 LIST OF SPEAKERS

2

Susan Payne - Hearing Officer

3

Joe Atchison - AG

Jessica Uttal - AG

4

Kurt Alstede

5

Mary Alstede

Rebekah Alstede

6

Sarah Alstede

Bradley Burke

7

Pat Butch

Allen Carter

8

Gary DeFelice

Keith Dickinson

9

James Giamerese

Amy Hansen

10

Bob Hornby

David Neal for Mitchell Jones

11

Mary Knowlton

Walter Lane

12

Katelyn Katzer

Stephen Makarevich

13

Leah McCormack

William McCormack

14

Robert McNinch

Robert Puskas

15

Jim Specca

Anthony Sposaro

16

Patricia Springwell

Ryck Suydam

17

Pierre Van Mater, III

Arie Van Vugt

18

Nicole Voigt

Meg Whitehouse

19

Andrew Philbrick

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1                   SUSAN PAYNE: Good evening, everyone.  
2     Um -- my name is Susan Payne. Uh, I'm the Executive  
3     Director of the SADC. Thank you all for coming  
4     tonight. Um, and to get us started, I'm going to  
5     introduce Joe Atchison. Uh, he is the Assistant  
6     Secretary of Agriculture for New Jersey's Department  
7     of AG. Joe.

8                   JOE ATCHISON: Hi. Good evening,  
9     everybody. Uh, welcome to tonight's virtual public  
10    hearing meeting. Uh, my name is Joe Atchison. As  
11    Susan said, I'm the assistant secretary fulfilling  
12    the duties of the secretary until the, uh, State  
13    Board of Agriculture and the governor appoint a  
14    permanent replacement. Uh, the purpose of tonight's  
15    hearing is to listen to input from all interested  
16    parties on the new Soil Protection Standards proposed  
17    by the State Agricultural Development Committee. The  
18    standards are intended to clarify for farmers and  
19    farm owners the extent to which soil resources can be  
20    disturbed on preserved farmland while maintaining  
21    compliance with the Farmland Preservation Program.  
22    We want to acknowledge the high degree of interest in  
23    this issue from stakeholders throughout New Jersey  
24    from both agricultural and nonagricultural  
25    communities alike, and we also recognize that many

1 people are very passionate about this subject. That  
2 said, our expectation for this hearing is that all  
3 participants will observe proper decorum,  
4 professional behavior and civil discourse. Any use  
5 of profane, threatening or abusive language will not  
6 be tolerated and such speakers will be muted and lose  
7 any balance of the time remaining for his or her  
8 comment. We want to express our sincere appreciation  
9 for everyone taking the time to attend tonight's  
10 hearing. Whether just listening in or electing to  
11 participate, let's have a productive and informative  
12 meeting. With that, I'd like to turn the proceedings  
13 back over to Executive Director of the SADC, Susan  
14 Payne. Thanks, Susan.

15                   SUSAN PAYNE: Thank you, Joe. Um, so  
16 I'm going to be, um, acting as the hearing officer  
17 for tonight's public hearing. Uh, the public hearing  
18 is being held to receive comments on new rule  
19 proposed by the SADC to protect soil and other  
20 resources on farms preserved under the New Jersey  
21 Farmland Preservation Program. The proposed rule was  
22 published in the New Jersey Register on August 7,  
23 2023. The proposed rule is available on the SADC's  
24 website at [www.nj.gov/agriculture/sadc](http://www.nj.gov/agriculture/sadc). You can also  
25 request a copy of the rule proposal by sending an

1 E-mail to [sadc@ag.state.nj.us](mailto:sadc@ag.state.nj.us) or by calling us, uh,  
2 at 609-984-2504. The public comment period expires  
3 on October 6, 2023. Written comments can be  
4 submitted electronically to the same address I just,  
5 uh, gave you, [sadc@ag.state.nj.us](mailto:sadc@ag.state.nj.us), or you can E-mail  
6 them to my attention to the SADC, P.O. Box 330,  
7 Trenton, New Jersey 08625-0330. All relevant  
8 comments will be addressed by the SADC in the New  
9 Jersey Register. This public hearing on the rule  
10 proposal is being held in accordance with the  
11 Administrative Procedures Act, and, as required, the  
12 SADC provided notice through the SADC's website and  
13 through electronic mail to all stakeholders on  
14 September 8, 2023. Detailed instructions for  
15 participating in the public hearing were included in  
16 that notice, including advanced registration for  
17 those wishing to make public comments tonight. This  
18 hearing is being recorded and will be made avail for  
19 viewing on the agency's website later this week. The  
20 hearing will also be transcribed so that a verbatim  
21 record is created. The goal of the hearing is to  
22 receive verbal comments into the record concerning  
23 the rule proposal. The hearing is not intended to be  
24 a question-and-answer session, but to provide  
25 interested parties the opportunity to voice your

1 concern and opinions about the proposed rules. If  
2 you have a specific question about the rule that I  
3 can answer quickly, I will do so. Otherwise, we want  
4 to maximize the time avail for comments. All  
5 comments and questions raised tonight will be  
6 addressed by the agency in its response to public  
7 comments in the New Jersey Register after the public  
8 comment period concludes. This is a virtual public  
9 hearing, so we will be operating as follows: All  
10 participants have been muted by the meeting  
11 moderator. The chat function within the team's  
12 format has been disabled, as all comments received  
13 tonight will be verbal. As stated earlier, written  
14 comments may be submitted to the agency via our  
15 E-mail address at [sadc@ag.state.nj.us](mailto:sadc@ag.state.nj.us) or sent to our  
16 physical address. When we get to the public comment  
17 portion of the hearing, speakers who registered to  
18 speak will be called upon in alphabetical order to  
19 provide their testimony. Once we call your name to  
20 speak, you must un-mute yourself to be heard. The  
21 hearing moderator cannot un-mute you. If you are  
22 participating by TEAMS, un-mute yourself by clicking  
23 the microphone icon at the top of your TEAMS screen.  
24 If you are participating by phone, you can un-mute  
25 yourself by pressing star and then six on your phone.

1 So that's Star 6. Each speaker will have four  
2 minutes to provide their comments. Once the time  
3 limit is reached, the person speaking will be asked  
4 to quickly conclude their statement. Otherwise, the  
5 meeting moderator will mute the speaker and will call  
6 on the next commenter on the registration list. If  
7 for some reason you're not able to complete your  
8 comment within the allotted period of time, you are  
9 encouraged to submit your comment in full in writing  
10 by the October 6th deadline. If anyone has technical  
11 problems and cannot speak when called on, we will  
12 circle back and call on you later after the remaining  
13 speakers have been called on, and this hearing will  
14 conclude at nine o'clock. So I'd like to start the  
15 hearing with a very brief overview of why, um, the  
16 SADC thinks these standards are necessary. Um, the  
17 overall purpose of the rule proposal is to harmonize  
18 the provisions contained in the Deed of Easement  
19 recorded on each farm enrolled in the state's  
20 Farmland Preservation Program. The Deed of Easement  
21 provisions were created at the founding of the  
22 program in 1984 and were broadly intended to prevent  
23 the loss of farmland to nonagricultural development  
24 in New Jersey and ensure preserved farmland is  
25 available to support the agriculture industry now and

1 into the future. However, when taken individually or  
2 when not read together, certain provisions of the  
3 deed can be misinterpreted to allow large-scale  
4 damage or destruction of soil and resources -- soil  
5 and water resources on preserved farms. In  
6 particular, paragraph seven of the deed terms  
7 prohibits activities that are detrimental to the  
8 conservation of soil and water resources, as well as  
9 any activity that would be detrimental to continued  
10 agricultural use of the farm, but at the same time,  
11 paragraph twelve and fourteen of the deed allow the  
12 farm owner to construct roads and buildings for  
13 agricultural purposes. This issue came to a head in  
14 2007 when the owner of a preserved farm conducted a  
15 large scale cut-and-fill operation intended to  
16 prepare an area for Hoop House development. The  
17 courts, subsequently, found that the site work to  
18 have substantially damaged the soil in that area and  
19 were at a scale that violated the Farmland  
20 Preservation Program easement and the programs  
21 enabling laws. The case made its way all the way to  
22 the New Jersey Supreme Court, which issued an opinion  
23 in 2018 that has informed the SADC's development of  
24 the proposed soil protection standards, and I'd like  
25 to share a few of the court's observations with you



1     tonight.  So the first point, and I'll read it  
2     while -- although it's also on the screen.  So while  
3     the landowner's construction of Hoop Houses to  
4     protect their horticultural crops was an appropriate  
5     agricultural use for preserved farmland, it was  
6     required to be carried out in balance with soil  
7     conservation, and the -- it says ARDA's -- that's the  
8     AG-Retention Development Act's, overreaching focus on  
9     preserving the agricultural use of farmland in  
10    perpetuity.  The court went on to say, the  
11    AG-Retention and Development Act and the existing  
12    SADC regulations have a dual purpose, to strengthen  
13    the agricultural industry and to preserve farmland.  
14    Both are important goals.  Neither is subordinate to  
15    the other.  The approach must be to balance farmland  
16    preservation and strengthen the agricultural  
17    industry.  Next slide.  The third main point from the  
18    decision we wanted to share with you is as follows:  
19    It says, if the SADC fails to undertake the necessary  
20    rule-making to establish guidance on the extent of  
21    soil disturbance that is permissible on preserved  
22    farms, then it can expect challenges to its  
23    enforcement actions.  In some, while owners of  
24    preserved farmland are on notice of their requirement  
25    to conserve soil, they are left without -- without

1 adequate direction on the tangible constraints on  
2 their agricultural use of the land. Persons subject  
3 to regulation are entitled to something more than a  
4 general declaration of statutory purpose to guide  
5 their conduct. Farmers are entitled to sufficiently  
6 definite regulations and standards so that  
7 administrative decision-making is fair and  
8 predictable. Therefore, as a result of the Supreme  
9 Court Decision, the SADC developed the proposed rules  
10 to, again, harmonize the provisions contained in the  
11 Deed of Easement so that preserved farmland owners  
12 have clear and predictable guidance on the extent to  
13 which soil can be disturbed in support of  
14 agricultural development without violating the  
15 Farmland Preservation Program Deed of Easement.  
16 Finally, it's important to note that each preserved  
17 farm's deed restrictions dating back to the program's  
18 inception in 1984 required that preserved farms be  
19 maintained in compliance with SADC regulations. Now,  
20 to provide some background on, um, what work was done  
21 to develop the rules, um, this slide outlines, uh,  
22 some of the -- the main topics that were examined in  
23 development of the rules. Um, the -- so protection  
24 standard was the result of extensive research and  
25 development utilizing technological and professional

1 information, including, but not limited to, US  
2 Department of Agricultural's Natural Resource  
3 Conservation Service, the US Census of Agricultural  
4 standards from other New Jersey state agencies,  
5 including the Department of Community Affairs, State  
6 Soil Conservation Committee, and the Department of  
7 Environmental Protection, and standards from other  
8 states related to the soil management and farmland  
9 reclamation. The SADC also engaged Rutgers  
10 University to understand the implications of various  
11 activities on soil productivity and contracted with  
12 Rowan University to identify and document the extent  
13 of soil disturbance on all 2900-plus preserved farms,  
14 in addition to 600 unpreserved farms all located in  
15 New Jersey. The proposed rules are comprised of two  
16 main sections. The first proposed section 25  
17 contains the core provisions of the rule, including,  
18 but not limited to, applicable definitions, the  
19 proposed soil disturbance limitation. What practices  
20 are considered exempt and do not count as soil  
21 disturbance. And I'll say that there are a lot of,  
22 um, normal agricultural practices that are considered  
23 exempt, uh, under the rule. The ability for  
24 preserved farm owners to seek certain waivers from  
25 the soil disturbance limitation. The ability to

1 aggregate soil disturbance allocation among adjacent  
2 preserved farms. How soil disturbance standards  
3 affect requests to divide preserved farmland,  
4 requirements surrounding rehabilitation of disturbed  
5 farmland so that it no longer counts as disturbance.  
6 The issuance and ability to appeal baseline soil  
7 disturbance mapping issued by the SADC. Monitoring  
8 requirements for reporting changes in soil  
9 disturbance, and the administrative process for  
10 requesting mapping and other SADC reviews. Section  
11 25A contains supplemental performance-based  
12 standards, including how certain activities, such as  
13 soil stockpiling and utility construction, can be  
14 done in a manner that qualifies them as exempt  
15 practices that do not count as soil disturbance.  
16 Construction standards to be followed when a  
17 landowner qualifies for a production waiver, and  
18 rehabilitation standards for when landowners seek to  
19 reverse the designation of already disturbed areas to  
20 one considered not disturbance. Okay, so with that  
21 introduction, we'll now invite those who  
22 preregistered to provide their comments. When your  
23 name is called, please state your name, and if you  
24 are, uh, representing anyone other than yourself,  
25 indicate the name of the entity you are representing.

1 I will do my best to -- to, um, accurately pronounce  
2 your name, and if I don't, I'll ask for your  
3 forgiveness in advance. So with that, I'd like to,  
4 uh, call on Kurt Alstede, um, to start, um, our  
5 public comment period. Kurt, can you un-mute  
6 yourself?

7 KURT ALSTEDE: Yes. Good evening. Can  
8 you hear me?

9 SUSAN PAYNE: Yes, we can. Thank you.

10 KURT ALSTEDE: Alright. Well, lucky  
11 for you, uh, having the last name of A, I'm used to  
12 sitting at the front of the classroom and I'm well  
13 accustomed with going first, so --

14 SUSAN PAYNE: Good --

15 KURT ALSTEDE: So even -- good evening,  
16 everybody, and thanks for this opportunity. My name,  
17 for the record, is Kurt Alstede, and I am a first  
18 generation farmer from Chester, New Jersey in Morris  
19 County, and I appreciate the opportunity to speak to  
20 you tonight. Uh, for the record, please allow me to  
21 clarify that I am not here tonight representing the  
22 New Jersey State Board of Agriculture, nor the New  
23 Jersey Highlands Council, nor Farm Credit East.  
24 Rather, I'm here representing myself and the Alstede  
25 family as full-time farmers, in addition to other

1 entities, Alstede Farms, LLC, Lebensfreude, LLC, and  
2 HSA, Jr., LLC. I've long shared my multiple concerns  
3 regarding the proposed soil protection standards and  
4 endeavored to bring very important perspectives to  
5 the attention of the SADC. As leader of the  
6 agricultural industry in New Jersey and the  
7 Northeast, I see no greater threat to long-term farm  
8 viability than these proposed rules. In summary, the  
9 proposed rules advance an overreaching  
10 one-size-fits-all solution that dramatically impacts  
11 producers throughout the state that don't have a  
12 problem to begin with. One farmer, only one producer  
13 and their actions has brought about this complex  
14 regulatory burden that likens farmers on preserved  
15 land to ser -- serving at the will of the king and  
16 queen. Farmers are excellent stewards of the natural  
17 resources that they own and manage. One must only  
18 look as far as the success of the NRCS programs to  
19 see what works. Since the dust bowl of the 1930s and  
20 the inception of the soil conservation service,  
21 government leaders and agriculturalists have  
22 understood that natural resource management goals are  
23 best achieved through private public partnerships  
24 that are based upon producer voluntary participation  
25 enhanced through cost share and grant incentives in a

1 fashion that highlights site specific review and  
2 application. This remains the cornerstone of all  
3 NRCS state and regional conservation programs today.  
4 This is -- this is, indeed, the basis for our  
5 Farmland Preservation Program in New Jersey. Yet,  
6 one can argue that the farmers and landowners that  
7 were most interested in preserving agricultural in  
8 the state, the ones that voluntarily stepped forward  
9 to preserve their land, that dedicated their future  
10 to the wellbeing of the state of New Jersey, are now  
11 the ones that are being punished by these far  
12 overreaching regulations whose futures of having an  
13 economically viable farm business in New Jersey will  
14 be severely curtailed as the ability to adapt and  
15 change in the future using appropriate AG development  
16 on their farms will be arbitrarily prohibited. Not  
17 only do these proposed rules impinge future  
18 agricultural viability for thousands of farmers, they  
19 also break the law. Farmland preservation, Deeds of  
20 Easement are a contract. Farmers enter these  
21 contracts with the understanding under basic contract  
22 law that they could not and would not change, as our  
23 justice system promises, that a contract can only be  
24 changed if all the parties to the contract agree to  
25 the changes. Farmers, the parties to the Farmland

1 Preservation contracts, are loudly rejecting this  
2 change to the contracts and the SADC is prohibited by  
3 law from solely changing the terms of Deeds of  
4 Easement, these contracts. This principle has been  
5 upheld in New Jersey courts as recently as last year  
6 in rulings that the SADC was party to. I urge the  
7 SADC to abandon this propos -- this proposed  
8 overstepping, illegal and misdirected rule. Rather,  
9 the solution that you are seeking should be found in  
10 a voluntary program that promotes public private  
11 partnerships, voluntary participation and compensates  
12 farmers for the purchase of their AG development  
13 rights. The SADC has the funds to do this through  
14 the corporate business tax. We encourage you to take  
15 the high road to protect the future of thousands of  
16 farmers and to do the right thing. Thank you very  
17 much.

18 SUSAN PAYNE: Thank you, Kurt. I'd  
19 like to call on Mary Alstede. Mary, can you un-mute  
20 yourself?

21 MARY ALSTEDE: Yep. Sorry. Switching  
22 seats here.

23 SUSAN PAYNE: That's okay.

24 MARY ALSTEDE: Um, my name is Mary  
25 Alstede. Uh, I'm a full-time farmer and farm owner



1 with my husband, Kurt, and our four children in  
2 Chester, New Jersey in Morris County. We are a true  
3 family farm producing fruits and vegetables on nearly  
4 800 acres of land, 550 of which we own, all of which  
5 is preserved. My personal roots in Morris County  
6 date back to the founding of this country and include  
7 personalities like Tempe Wick, who -- who assisted  
8 colonial soldiers against the British while the  
9 Continental Army was camped in Jockey Hollow just  
10 outside of Morristown on my father's side, and Morris  
11 County native, Dr. Daniel Salmon, born on a farm in  
12 Mount Olive, who famously discovered the bacteria  
13 salmonella while working for the USDA on my mother's  
14 side. My grandparents, Scott and Mary Parks, farmed  
15 their entire lives in Morris County in both Flanders  
16 and on this -- in both Flanders on the same farm on  
17 which Daniel Salmon was born in Chester. They  
18 successfully transitioned their diary farm to a  
19 thriving fruit and vegetable farm that began direct  
20 marketing their produce from a stand on Route 24 and  
21 through Pick Your Own Activities in Chester decades  
22 before anyone ever coined the term agri-tourism. It  
23 was on their farm that I first met Kurt. He was  
24 working as a teenager for my grandparents and uncles.  
25 Little did I know at the time that this chance

1 meeting over forty years ago would lead me to  
2 continue this long legacy of farming in Morris  
3 County. My grandfather, Scott Parks, a longtime  
4 member of the Morris County Board of Agriculture, was  
5 recognized nationally as an early pioneer in applying  
6 soil and water conservation practices on our farm in  
7 Chester. He was flown to a conference in Arizona in  
8 the early 1970s to speak on the benefits of  
9 participating in soil and water conservation  
10 programs, specifically ones that were private public  
11 partnerships that highlighted voluntary participation  
12 and monetary incentives. Sadly, I watched my  
13 grandparent's farm become a housing development as  
14 estate planning, age and the absence of a Farmland  
15 Preservation Program in the early 1980s necessitated  
16 the sale of the bulk of our family's farmland. Had  
17 the voluntary New Jersey Farmland Preservation  
18 Program existed then, our legacy family farm in  
19 Morris County would still be producing local foods  
20 today. Yet, my family legacy lives on in the work  
21 that my husband, children and I do on our preserved  
22 farms in Morris County and we're so proud of that.  
23 However, I now fear that the overreaching and  
24 heavy-handedness that this rule proposes will greatly  
25 impact our children's ability to navigate our family

1 farm into the next generation with the necessary  
2 flexibility and agility to remain an economically  
3 viable farm operation. While it might succeed in  
4 preserving land, it will fail in preserving true  
5 family farmers who are making their living farming on  
6 this land. I urge the adoption of standards that  
7 champion nature -- natural resource management of  
8 preserved farms through private public partnerships  
9 that utilize financial incentives and grants to  
10 invite farmers to voluntary -- voluntarily  
11 participate just as soil and water conservation  
12 programs has -- have done successfully for nearly a  
13 cent -- a century, just like my grandparents did  
14 decades ago. I also urge you to compensate farmers  
15 for the sale of their AG development rights.  
16 Farmland preservation contracts in past years only  
17 purchase the commercial and residential development  
18 rights. The AG development rights were never  
19 purchased. If the SADC concludes that AG development  
20 rights must be limited, then they should pay for it.  
21 Our family wishes to farm in Morris County for many  
22 generations to come to continue our 200-year-old  
23 legacy of local food production. The rules as they  
24 are presently proposed will endanger our ability to  
25 do that. Thank you.

1                   SUSAN PAYNE: Thank you, Mary. Can I  
2 call on Rebekah Alstede?

3                   REBEKAH ALSTEDE: Hello.

4                   SUSAN PAYNE: Hello.

5                   REBEKAH ALSTEDE: My name is Rebekah  
6 Alstede Modery, and I'm a second generation farmer  
7 from Chester, New Jersey representing the Alstede  
8 family and Alstede Farms. I appreciate your time and  
9 attention on this matter. I recently graduated from  
10 Delaware Valley University with the -- with degrees  
11 in Agricultural Business and Sustainable Agriculture.  
12 As a second generation farmer, the longevity and  
13 sustainability of our family business is at the  
14 forefront of my mind. As my sister and I work with  
15 our dad to plan our migration into ownership, we are  
16 constantly planning for what the future looks like as  
17 a business and as a farm, and as a family. We are no  
18 exception to the many farm families in New Jersey  
19 that farm because of their passion for caring for  
20 God's creation and providing food for the local  
21 community. As I look into my future as an owner of  
22 our family business, sustainability is a critical  
23 factor, not only sustainability of our finances to  
24 get through year-to-year costs, but, more  
25 importantly, the sustainability of our soil, water

1 and resources that will allow us to continue farming  
2 into the far future. Farmers like myself have no  
3 intention of destroying our soil as it simply would  
4 not afford us the opportunity to continue farming and  
5 making a living. Managing soil and other resources  
6 is not a one-size-fits-all solution. Each farm in  
7 New Jersey is unique in its challenges and its  
8 successes, but are similar in their desire to keep  
9 their farms producing for years to come. NRCS  
10 recognizes this with their conservation plans being  
11 specific to each individual farm. These proposed  
12 standards do not. When we preserved our farm we sold  
13 the rights to home development, but did not sell the  
14 rights to growing our business in ways that the  
15 business climate demands. These regulations would  
16 force us to do that with no monetary gain. If  
17 anything, it would be a large loss for agriculture in  
18 this state as a whole. These proposed regulations  
19 for our soil are restrictive, aggressive, and in no  
20 way do they afford me the opportunity to grow my farm  
21 business into generations past my own. What these  
22 rules are trying to do is apply a single solution to  
23 thousands of farmers across the street, across the  
24 state without considering the consequences of the  
25 future generations that want to continue to grow

1 their families and their farms. I urge the SADC to  
2 rethink these rules to mirror the NRCS that creates  
3 conservation programs individually for each farm  
4 instead of applying one to them all. I have invested  
5 my education, my career and my future family into  
6 agricultural, and I'm asking that you do not pass  
7 rules that would directly impact my ability to grow  
8 my business as needed and, potentially, block my  
9 ability to maintain a sustainable business. These  
10 rules will go directly against efforts put forth  
11 throughout the state towards agricultural viability  
12 in New Jersey forcing families to give up their  
13 businesses due to the lack of ability to change and  
14 to grow. Please do not let this rule be the downfall  
15 to thousands of farmers across the state. Thank you.

16 SUSAN PAYNE: Thank you, Rebekah. Can  
17 I call on Sarah Alstede?

18 SARAH ALSTEDDE: Hello. Can you hear  
19 me?

20 SUSAN PAYNE: Yes.

21 SARAH ALSTEDDE: Okay. My name is Sarah  
22 Alstede. I'm representing both the Alstede family  
23 and Alstede Farms. I grew up on our family farm in  
24 Chester, New Jersey. Growing up I had the honor of  
25 watching my parents work hard to find success farming

1 under challenging circumstances. Weather, labor  
2 costs, regulatory compliance, high taxes and long  
3 hours are just a few of the obstacles that they  
4 faced. Yet, through their hard work, perseverance  
5 and faith, they found success that has enabled our  
6 family farm to grow and thrive. Their success,  
7 combined with my passion for farm life and livestock,  
8 has led me to a career in farming as well. I'm  
9 currently a senior at Centenary University in  
10 Hackettstown, New Jersey where I'm majoring --  
11 majoring in equine business management. My sister  
12 and I have chosen to join our family farm as both  
13 owners and full-time farmers. While our farm is  
14 primarily a fruit and vegetable farm, I have a love  
15 for livestock that will always ensure the inclusion  
16 of farm animal production on our farm. Throughout my  
17 life growing up on our farm, I have observed the  
18 economic viability and the ability to transition, and  
19 change are essential to long-term family farm health.  
20 Simply stated, if you cannot make enough money your  
21 farm will fail. If you cannot adapt your farm to  
22 meet changing consumer demands your farm will fail.  
23 If regulations are so overreached and burdensome your  
24 farm will fail. I do not want our family farm to  
25 fail. I'm dedicating my entire future to farming

1 here in Morris County and our family has recently  
2 purchased more preserved farmland to expand and build  
3 our family farm. Our ability to pay mortgage, one of  
4 which my sister and I are responsible for, will only  
5 be possible if we're making a living and enough money  
6 through farming. I fear that the proposed soil  
7 protection standards will greatly impact our ability  
8 to make a living on our family's farm. The absence  
9 of site specific review and application of soil and  
10 water conservation practices through voluntary  
11 participation in natural resource protection programs  
12 that are supported through financial cost share and  
13 grants will lead to the failure and collapse of  
14 agriculture in New Jersey. I also fear that the  
15 pro -- the proposed rule, more specifically, targets  
16 animal agricultural that relies on appropriate AG,  
17 development to protect and raise livestock. The  
18 ability for New Jersey farmers to expand and  
19 transition their preserved farms into additional,  
20 dairy, beef, poultry, equine, egg production and  
21 more, will be greatly denied due to a  
22 one-size-fits-all approach that the current rule  
23 applies to farms. We should not be -- we should be  
24 seeking to expand opportunities for livestock farming  
25 in New Jersey, not to diminish it. Finally, the rule



1 takes away a right of family farmers to expand  
2 appropriate AG development, something that was never  
3 purchased when the farms were preserved. The SADC  
4 through this rule is seeking to take something that  
5 doesn't belong to them. I encourage you to  
6 reconsider your approach. Offer a voluntary public  
7 private partnership program that recognizes site  
8 specific review and that properly compensates farmers  
9 for their AG development rights. I want to farm in  
10 New Jersey. Do not take that away from me. Thank  
11 you.

12 SUSAN PAYNE: Thank you, Sarah. Next  
13 speaker on the list is George Asprocolas. George --  
14 uh, Mr. Asprocolas, are -- are you able to un-mute  
15 yourself? If you're on the phone, it's Star 6, and  
16 if you're on the TEAMS call, uh, if you click on  
17 the -- the microphone icon on the top of the screen  
18 you should be able to un-mute yourself. Okay. We  
19 will, uh, go on. Hopefully, we can get  
20 Mr. Asprocolas later if he is on the call. So the  
21 next, um, speaker on the list is Mr. Bradley Burke.

22 BRADLEY BURKE: Uh, hello. Thank you.  
23 Can you hear me?

24 SUSAN PAYNE: Yes, we can.

25 BRADLEY BURKE: Um, I am Bradley Burke.

1 I own Long Meadow Farms, which is forty-four acres in  
2 Warren County, um, and we grow fruits and vegetables.  
3 Um, I am a board member of the Warren Country CADB,  
4 but I'm not here as their spokesman. I speak, uh,  
5 today for myself. Um, we know why, uh, we're here to  
6 discuss this matter, um, uh, and to address the  
7 standards, uh, that are related to the soil  
8 disturbance. Uh, based on the study of the farms  
9 across the Northeast, it was determined that the  
10 vast majority of farms do not have improvements that  
11 cover more than five percent of the land surface and  
12 only a very few, uh, cover, uh, up to as much as  
13 twelve percent, but therein lies -- and, uh -- and,  
14 therefore, uh, by capping the impervious surface to  
15 five percent or up to, with exceptions, twelve  
16 percent, uh, the soils are protected by those limits,  
17 but herein lies the problem. Uh, the new standards,  
18 fundamentally, change the Deeds of Easement from the  
19 purchase of 100 percent of any and all commercial  
20 development rights to also include ninety-five  
21 percent of the agricultural development rights as  
22 well. Uh, these changes are contradictory to the  
23 terms of the Deed of Easement which, um, spells out  
24 the right to construct agricultural build --  
25 buildings and roadways without specific limits. The

1 right to do so keeps the pre -- preserved farm on the  
2 same par as the nonpreserved farm. Uh, the Right to  
3 Farm law also protects the farmer's rights to make  
4 these same improvements. The court's decision also  
5 made reference to the intent of the ARDA, the  
6 Agricultural Retention and Development Act, uh, which  
7 the preservation program is based on -- uh, which  
8 is -- the intent is to promote agricultural industry,  
9 uh, not to impose limits on it. The proposed  
10 standards will have a negative affect on the  
11 preservation program uh, at the Warren County board  
12 we're seeing, um, uh, fewer and fewer applicants, uh,  
13 applying, uh, for, uh, farmland preservation, uh,  
14 and, as well, we're confronted with longer and longer  
15 time frames that it takes to complete the present --  
16 uh, preservation process because of the increasing  
17 complexity of -- of the, uh, process. I'd like to  
18 give all the credit where credit is due to the, uh,  
19 CABD attorney who does all that work in the process,  
20 from explaining the Deed of Easement to the  
21 applicants to getting surveys and appraisals and  
22 closing the purchase. Uh, only then does the board  
23 give its, uh, stamp of approval and memorialize, um,  
24 the purchase of the Deed of Easement, but I ask you  
25 here, bear with me and put yourself in the shoes of

1 the CADB attorney who would have to explain the  
2 deed -- Deed of Easement to the new applicant. So,  
3 well, Mr. and Mrs. Farm Owner, in the most basic  
4 sense, your farm will remain a farm forever. You  
5 still own the land. You can continue to farm it.  
6 The easement we are paying you for purchase 100  
7 percent of the commercial development rights, that is  
8 housing developments, industrial or any business  
9 enterprise other than farming, but, oh, by the way,  
10 the new fine print also includes ninety-five percent  
11 of the agricultural development as well. Uh, we call  
12 that an almost BOGO, you know, BOGO -- BOGO, buy one  
13 get one free. Uh, the -- uh, uh, easement purchase  
14 will purchase 100 percent of the commercial  
15 development --

16 SUSAN PAYNE: Time.

17 BRADLEY BURKE: -- but, also, um,  
18 ninety-five percent of the agricultural developments,  
19 um, that can be increased, uh, by, uh, exception, but  
20 you'll have to bear an additional cost, uh, for the  
21 design and engineering and permitting and even the  
22 construction costs. Uh, we like to tag that as, uh,  
23 attacks on the, uh, preserved farm owner --

24 SUSAN PAYNE: Mr. Burke, can you  
25 conclude your statement, please?

1                   BRADLEY BURKE: Um, okay. Well, uh,  
2 please excuse my sarcasm there, but I think, uh,  
3 I'm -- I made my point. Um, the -- uh, um --  
4 there's, uh, also legal -- legal questions that arise  
5 from the contradictions in the -- in these  
6 fundamental, uh, provisions, um, as well as, uh,  
7 the -- the legal problem of how, uh, these --

8                   SUSAN PAYNE: Time.

9                   BRADLEY BURKE: -- would be propo --  
10 uh, imposed on already existing preserved farms.  
11 Thank you.

12                   SUSAN PAYNE: Thank you. Next speaker  
13 on the list is Pat Butch. Pat, are you there?

14                   PAT BUTCH: I am. Um, okay. I'll  
15 start now. I'm disappointed that this hearing is not  
16 held in person, but the first topic I'd like to  
17 address is the retroactivity. If this policy goes  
18 into effect, i feel, along with most of the  
19 agricultural community, it will alter the terms of  
20 the Deed of Easement as interpreted twenty-plus years  
21 ago. Uh, my story -- uh, my preservation journey  
22 started by investigating the programs with program  
23 staff. I talked about impervious coverage. I didn't  
24 want any impervious coverage. The federal program  
25 had three percent. I wasn't interested in that. The

1 state program they told me had none, so we con --  
2 continued the discussion. We talked about  
3 construction of roads and agricultural buildings and  
4 would I be in any way restricted with -- with, uh,  
5 doing these things since I have an animal production  
6 farm and I need roads for, uh, delivering of  
7 supplies. The answer I received is, the only  
8 restriction is residential and non-farm commercial  
9 development rights, no problem with roads to operate  
10 the farm. I then went to the contract that they had  
11 pres -- uh, presented to me and I didn't like the  
12 phrase, nothing detrimental to soil conservation.  
13 Um, I then said how about everything? Just about  
14 everything in agricultural can be considered  
15 detrimental. The animals hooves in the pastures  
16 cause churning of the soil and potential erosion  
17 around the gates and the fence lines and roads to  
18 deliver the -- the hay and the -- the feed and water,  
19 uh, could be problematic. Even plowing can lead to,  
20 uh -- uh, erosion. The answer I was given is,  
21 agricultural proc -- practices will not be considered  
22 detrimental. So, uh, with this, we move forward and  
23 preserved the farm. With the new SPS, uh, policy. I  
24 feel that my Deed of Easement as described to me by  
25 program staff will be nullified. I will get

1 impervious coverage limitations, um -- I or the next  
2 owner will have a new farm manager partner. The  
3 state making agricultural farm decisions with me,  
4 how, what and when I grow and produce. Will I be  
5 able to do greenhouse production. Will I be able  
6 to -- to do potential agri-voltaics? Uh, I will not  
7 have the flexibility to make decisions that will be  
8 advantageous to the viability of the farm. New  
9 innovations, I don't know if I'll be able to take  
10 advantage three. I'd like to talk a little bit about  
11 this policy as an additional taking of agricultural  
12 financial value. Uh, this opinion is shared by real  
13 estate firms, Joining of smaller farms into one to  
14 increase impervious opportunities reduces the after  
15 values. When we appraise farms for the program, we  
16 all know smaller farms get more value per acre than  
17 larger ones with -- that are equal in other aspects.  
18 Adding restrictions on the type of farming  
19 opportunities will most likely reduce interest in  
20 purchase of preserved farms and reduce the offer  
21 prices of active farmers leaving the twenty-to-fifty  
22 acre farms attractive to estate owners to keep the  
23 land available for farming instead of farming or --  
24 or minimally rent farmland to meet the \$2,500 minimum  
25 right to farm and the \$1,000 minimum for assessment

1 inadvertently accomplishing the opposite result of  
2 the goals of the Farmland Preservation Program. Many  
3 farmers just heard for the first time about these  
4 rules when they received their oversized yellow  
5 envelope in their mailbox with their soils map  
6 disturbance. Currently, there's a flurry of  
7 anticipation. What is this? What is next? I've  
8 heard several farmers state that they would like to  
9 buy out of the program. This is not sticking to my  
10 deal. For many this has become a trust issue between  
11 SADC and preserved farmers. The Soil Preservation  
12 Resolution passed at the 2023 New Jersey State  
13 Convention says that it strongly resolves that we  
14 strongly urge the SADC to abandon the approach of  
15 making the new soil protection rules retroactive to  
16 farms that are already in the subject of the -- the  
17 Farmland Preservation Deeds of Easement as those  
18 farmers do not believe that they should be subjected  
19 to regulations that limit --

20 SUSAN PAYNE: Time.

21 PAT BUTCH: -- their agricultural  
22 practices and opportunities. I am asking you to --  
23 I'm -- I'm going to my conclusion. Uh, that we need  
24 a consensus agreement to avoid future problems in the  
25 industry. We take a pause and we look at this some



1 more and get it right the first time through. None  
2 of this is healthy for our industry. Pause, gain  
3 consensus on conservation of soil and pull the same  
4 train for the good of the consumers, producers and  
5 New Jersey residents. Thank you very much.

6 SUSAN PAYNE: Thank you, Pat. Next  
7 speaker is Allen Carter.

8 ALLEN CARTER: Good evening, Susan, and  
9 thank you for allowing me the opportunity, uh, just  
10 quick before the timer starts. Uh, you know, I  
11 didn't know that we had a four minute until, uh,  
12 about two o'clock today, so I've taken a twelve  
13 minute and shaved it as close to four minutes as I  
14 can. So I'm ready whenever you are.

15 SUSAN PAYNE: Go right ahead.

16 ALLEN CARTER: Alright. First, New  
17 Jersey reserves the right to submit additional  
18 comments following this hearing. Initially, the  
19 court and the quaker Valley Farms directed the SADC  
20 to establish guide -- guidance on the extent of  
21 the -- so disturbance that is permissible on  
22 preserved farms. Rather than providing guidance, a  
23 term that is well understood by the New Jersey  
24 agricultural community, the SADC opted for ex --  
25 excessive over regulations. In place of providing

1 advice and counsel concerning permissible activities  
2 on preserved farms, the SADC issued an eighty-page  
3 notice of rulemaking that consisted of nearly thirty  
4 pages of explanation and included some fifty pages of  
5 detailed regulations. That type of micromanaging may  
6 be appropriate in an academic setting, but it has no  
7 place in the real world of New Jersey production  
8 agriculture. Secondly, the court in -- in Quaker  
9 Valley Farms did not address whether the SADC's  
10 guidance could be applied to previously preserved  
11 farms or be limited to farms preserved after the  
12 issuance of the guidance. The issue is not before  
13 the court in Quaker Valley Farms, and the court does  
14 not issue advisory opinions. The agricultural  
15 community refers to this as retroactive issues. It  
16 is important for the SADC to take a step back and  
17 recognize that it is pro -- proposing to exercise its  
18 regulatory authority in an unusual settings. The  
19 difference here, and it is very significant  
20 difference, is that the proposal would drastically  
21 alter the terms of the settled real estate  
22 transaction the Deeds of Easement entered into the  
23 landowners over the last thirty-eight years.  
24 Paragraph two of the easement provide -- provides  
25 that, the premise shall be retained for agricultural

1 use and production and compliance with NJSA 41C11PL  
2 1983 C32, and all other rules promulgated by the  
3 state agricultural committee. That language clearly  
4 referred to the rules that had been adopted at the  
5 time the easements were ex -- executed. Had the  
6 draftsman intended otherwise, the deed restrictions  
7 would have expressly included both the rules that had  
8 been promulgated and the rules to be promulgated in  
9 the future. The Deeds of Easement were the result of  
10 real estate transactions in which the granter, the  
11 landowner, agreed to certain restrictions that would  
12 benefit the guarantee -- grantee. The parties  
13 negotiated the consideration to be paid to the  
14 landowner for those restrictions. The easement was  
15 then recorded in county recording office from the  
16 granter, the landowners' perspective. Once the Deed  
17 of Easement is recorded and there is an exchange of  
18 consideration a deal is a deal. Had the SADC placed  
19 the landowners on notice that the terms of the Deed  
20 of Easement were open-ended and could be changed in  
21 the future, it is likely that many of them would not  
22 have opted to sell their development rights or  
23 demanded additional consideration. What the SADC is  
24 proposing now is, fundamentally, unfair and is  
25 contrary to the well-established principle that the

1 government has an overriding obligation to deal  
2 forthrightly and fairly with property owners. The  
3 Supreme Court insisted that in the exercise of  
4 statutory responsibilities government must turn  
5 square corners, rather than exploit private citizens.  
6 Any suggestion that the SDS is simply a minor  
7 clarification of the existing provision of the DOE's  
8 that regulate to the drainage, flood control, water  
9 conservation, erosion control, soil conservation, nor  
10 shall any other activity be permitted which would be  
11 detrimental to the continued agricultural use of the  
12 premises defines the plain facts. If the proposed  
13 rules were only a minor clarification, it is  
14 inconceivable that the SADC would need -- have --  
15 would have needed to publish eighty pages of text in  
16 the New Jersey Registry.

17 SUSAN PAYNE: Time.

18 ALLEN CARTER: -- we -- what we have  
19 here is an effort by the SADC to improperly intrude  
20 on agricultural operations on preserved -- previously  
21 preserved farms and something that the owners of  
22 those farms never consented to or could have  
23 envisioned. If the SADC is able to all unilaterally  
24 revise the soil disturbance terms and the DOE's, it  
25 is fair to ask what is next. For the foregoing

1 reasons, the proposed rule should be withdrawn so  
2 that the SADC can prepare reasonable and practical  
3 guidance on the extent of soil disturbance that is  
4 permissible on preserved farms acquired after the  
5 adoption of the guidance. Thank you.

6 SUSAN PAYNE: Thank you, Allen. Next  
7 speaker on the list is Gary DeFelice.

8 GARY DEFELICE: Good evening. I'm Gary  
9 DeFelice, farmer in Middletown, New Jersey in  
10 Monmouth County. I am not a preserved farm owner,  
11 but someone who has high acclaim for New Jersey  
12 Farmland Preservation Program. To the point where I  
13 play a part that helps to institute the program in my  
14 county and also to help protect the integrity of the  
15 program that has been considered a model for those  
16 other states throughout our county, I believe the  
17 soils on preserved farms need to be protected, but I  
18 also believe that those farm families who had entered  
19 the program in good faith along with their operations  
20 also needs to be protected. Placing the soil  
21 protection standards as drafted by the SADC I feel  
22 jeopardizes those operations in order for them to  
23 continue to be innovative and remain viable along  
24 with diminishing their land values. They signed a  
25 Deed of Easement contract that now the SADC wants to

1 alter was something that most families or entities  
2 would not have agreed to at the time that their deal  
3 was consummated. Placing these restrictions along  
4 with long complicated bureaucratic steps for a waiver  
5 to them only puts more stress on an already stressful  
6 occupation. There have been viable recommendations  
7 made to the SADC that would be more conducive and  
8 less restrictive to most longtime preserved farm  
9 owners that would comply with the court ruling which  
10 is why we're here. I implore SADC to give more  
11 serious consideration to those recommendations, along  
12 with not placing these new restrictions on contracts  
13 that were previously agreed to in good faith by both  
14 parties. It will not only help in supporting the  
15 viability of those preserved farm operations, but  
16 also the viability and integrity of such an acclaimed  
17 program along with maintaining the trust given to the  
18 entity that oversees it. Thank you.

19 SUSAN PAYNE: Thank you, Gary. Next  
20 speaker is Keith Dickinson.

21 KEITH DICKINSON: Good evening. Uh,  
22 thank you for the -- thank you for the opportunity to  
23 present comments regarding the proposed soil  
24 protection standard rule for the farmland  
25 preservation program. I'm Keith Dickinson and the

1 following comments are my own and on behalf of myself  
2 and of M.R. Dickinson and Son, a family farming  
3 business located in Stow Creek Township, Cumberland  
4 County, of which I'm a partial owner. Our business  
5 owns approximately 145 acres of preserved farmland.  
6 Our farm practices do not currently constitute any  
7 soil disturbance practices under the current  
8 definitions proposed by the SADC. Based on this  
9 background, I wish to offer the perspective of an  
10 owner of preserved ground whose farm practices will  
11 not be immediately directly impacted by the proposed  
12 SPS rule. The primary concern that we have with the  
13 proposed rule is the retroactive nature of the  
14 application of this rule onto Deeds of Easement that  
15 predate the adoption of the rule. It is our  
16 viewpoint that this represents a violation of a  
17 contractual agreement that was entered into between  
18 our business and the State of New Jersey. We as the  
19 grantor of this easement do not have the ability to,  
20 likewise, change the terms of the contract or to  
21 agree to the changes in our contract with the state.  
22 It is simply unacceptable for the state to have the  
23 power to arbitrarily change the terms of the  
24 agreement without the ability of our business to  
25 agree to the revised terms of the agreement. As

1 previously mentioned, our farm does not currently  
2 have areas of soil disturbance under the current  
3 definitions proposed by the SADC. However, we cannot  
4 help but wonder what other changes to the terms of  
5 our Deed of Easement that the SADC will propose in  
6 the future. Adoption of the SPS retroactively  
7 creates an atmosphere of distrust for the Farmland  
8 Preservation Program and of the SADC. We had -- as  
9 an example, in our farm we have been considering  
10 putting another approximately 100 acres of our  
11 family-owned land into the program within the next  
12 few years, but we absolutely will not do so if this  
13 rule is adopted retroactively. I know that we are  
14 not the only landowners with a similar sentiment. We  
15 believe that the implementation of the rule  
16 retroactively will result on the severe reduction in  
17 applications for preservation. It will only be a  
18 desperate individual who willingly and knowingly  
19 enters into this program in the future knowing full  
20 well that the state can change the terms of the  
21 agreement after the fact. It is our contention that  
22 the retroactive application of this proposed rule to  
23 Deeds of Easement that exists prior to the date of  
24 adoption of said rule represents the taking of  
25 additional rights by the state from the landowner.



1 We propose that the SADC consider the following  
2 options to remedy this issue. If, and only if, the  
3 rule will be implemented as written do not apply --  
4 number one, do not apply the proposed rule  
5 retroactively to existing Deeds of Easement. Apply  
6 this rule only to new Deeds of Easement written after  
7 the date of adoption. Allow the landowner to choose.  
8 If the state is insistent on applying this rule to  
9 all existing Deeds of Easement, then the current  
10 owners of these parcels must be compensated  
11 financially for the add -- the additional rights that  
12 will be lost via the implementation of the proposed  
13 rule. We will note that these -- of these two  
14 options the first is the only option that would  
15 result in our farm considering future participation  
16 in the Farmland Preservation pro -- Program. The  
17 second option, while making us whole for the taking  
18 of additional rights, would leave us with a continued  
19 air of distrust towards the SADC and the Farmland  
20 Preservation Program as a whole. Thank you very  
21 much.

22 SUSAN PAYNE: Thank you. Next speaker  
23 on the list is Jack Gall -- um, sorry, Galiczyski.  
24 Sure I butchered that, so my apologies. Jack, are  
25 you on the phone? Jess, do you have, um, any

1 evidence of, um, Jack being with us on the -- on the  
2 call?

3 JESSICA UTTAL: I do not.

4 SUSAN PAYNE: Okay. Alright. Then we  
5 will continue on to, uh, James Giamerese. Jim.

6 JAMES GIAMERESE: Can you hear me?

7 SUSAN PAYNE: Yes, we can.

8 JAMES GIAMERESE: Okay. Um, thank you  
9 for this time and opportunity to -- to speak. Um,  
10 I'm going to address this to the farmer members. Uh,  
11 I know five of you and I have served with four of you  
12 on the state board and I have great respect for all.  
13 Uh, I hope likewise for myself. Uh, in my experience  
14 over the years as an AG leader, I've experienced --  
15 uh, many times, uh, have seen bureaucracy, um, and  
16 logic kind of goes out the window, so this is what  
17 I'm seeing here. Um, these rules were not in our  
18 Deeds of Easement at the time that the farmers sold  
19 their development rights. Uh, you should not and  
20 cannot make this retroactive or you will cripple the  
21 program. An example is here in Middlesex County, uh,  
22 I chair the Middlesex County Agricultural Development  
23 Board. We have a family farm with three brothers  
24 with over 200 acres involved in nursery. Um, they  
25 flat out came and told me that they will not preserve

1 another sixty acres that's in the family because they  
2 will not be able to, um, farm or do nursery the way  
3 they really need to or the way the industry does. Um,  
4 I would argue that here we're going to give away more  
5 to the SADC than these rules will give us. Um, I  
6 wonder -- uh, it's somewhat critical staff, but how  
7 many staff are full-time farmers and have any skin in  
8 the game. Um, when the state purchases a farm or  
9 farm development rights, doesn't staff examine the  
10 property at the time, uh, to see what is existing,  
11 basically preexisting soil disturbance. Shouldn't  
12 the farm be given zero percent when they enter into  
13 the program because of preexisting soil disturbance  
14 or non-soil disturbance, and then should it be  
15 grandfathered in and then allow the current twelve  
16 percent? My question here is personal. This is how  
17 is a horse run in shed? I have two horses. How is  
18 soil disturbance, um, given to that run in shed when  
19 I could take any other piece of equipment, say a  
20 tractor or a trailer, um, and move it and the 120  
21 days is just kind of ridiculous. Um, I can drag it  
22 away to anywhere on the farm and plant grass and it  
23 would grow or any crop. The soil hasn't been  
24 altered. The only thing that's happened to it is --  
25 is it wasn't a shade. Um, another question. Why are

1 houses considered soil disturbance? Farmer has to  
2 live somewhere. Um, and my house has been here for a  
3 century and a half back to the old, you know what you  
4 were getting into when you guys preserved it. Um,  
5 your name implies AG development. You need -- need  
6 to have a listening session with nursery and  
7 greenhouse growers to truly understand where they're  
8 coming from. Why would a farmer want to buy 100  
9 acres and only really be able to use twelve and be  
10 profitable? The other would be either grain or  
11 vegetables, which is very difficult. You really need  
12 to think about the future and this is where I really  
13 want to come in here. I have no heirs, so I know  
14 somebody's going to buy this farm when I pass away.  
15 What is that going to look like in fifteen or twenty  
16 years or fifty years? When my grandfather first  
17 bought the farm they farmed with a horse, uh, and  
18 would bring produce to a market in a four wagon -- I  
19 mean, a four-wheel wagon. Um, and just lastly, the  
20 farm community has fought hard for this program, uh,  
21 by strong lobbying, for its funding and for staff  
22 salaries and previous legislation, um, but I  
23 personally wonder why the SADC has become very  
24 bloated and regulatory as most farmers are seeing it.  
25 We really don't need another straw on a camel's back.

1 Thank you.

2 SUSAN PAYNE: Thank you, Jim. Next  
3 speaker on the list is Amy Hansen. Amy, are you  
4 on -- on the call and can you un-mute yourself?

5 AMY HANSEN: Can you hear me?

6 SUSAN PAYNE: Yes.

7 AMY HANSEN: Okay. Great. Uh, thank  
8 you. I'm speaking as an owner and operator of an  
9 organic fruit and vegetable farm in Hunterton County  
10 with my husband. We preserved our farm in the county  
11 in 2006 with a state program. We also voluntarily  
12 took federal funds which required that we limit the  
13 impervious cover on our land to protect the soil,  
14 water and other natural resources. We agreed to a  
15 limit on permanent cover of the soil because we care  
16 deeply about the future of soil-dependent farming.  
17 The loss of topsoil in the United States is -- is of  
18 deep concern to us. The Farmland Preservation  
19 Program is paid for by taxpayers. People who pay  
20 taxes in New Jersey are entitled to the natural  
21 resource protection specifically included in the  
22 program's Deed of Easement which states, no activity  
23 is permitted which would be detrimental to water  
24 conservation, erosion control or soil conservation.  
25 The SADC racks -- ranks farms on their soil quality

1 when a farm is being assessed for preservation, so it  
2 makes good sense to protect these soils. With a  
3 decrease. Um, let's see -- sorry. It is just so  
4 important that we stored the land and soils going  
5 forward so that we garner the full agricultural  
6 production and natural resource protection benefits  
7 that the program promises to taxpayers. Setting  
8 limits on soil disturbance is necessary to ensure  
9 that healthy soil resources are available for future  
10 generations of farmers to grow food. I am also  
11 speaking as policy manager, a New Jersey Conservation  
12 Foundation. We helped create the Farmland  
13 Preservation Program and pounded the pavement in  
14 Trenton and the wall -- the halls of the, uh,  
15 statehouse to ask for funding from the legislator --  
16 uh, legislators many, many times. Uh, as a New  
17 Jersey Conservation Foundation we have been concerned  
18 that the program has been weakened by the recent  
19 passage of the Special Occasion Events law. This law  
20 allows commercial nonagricultural development, such  
21 as large weddings and concerts, on preserved farms by  
22 amending the Deeds of Easement. There was a strong  
23 push for this change to the Farmland Preservation  
24 Program Deed of Easement and that it be retroactive  
25 to all preserved farms. While this change was agreed

1 upon by many members of the New Jersey agricultural  
2 communities, we are now listening to comments that  
3 the Deeds of Easement should not be changed to  
4 protect soil water and other natural resources. This  
5 is truly concerning. Uh -- at -- at New Jersey  
6 Conservation Foundation we have been, uh, trying to  
7 get the state to put in a soil protection program or  
8 soil protection, uh, standards, and we believe this  
9 does not go far enough to protect the soils.  
10 However, it has been too long and there is no limit  
11 currently, so we urge the SADC to adopt these soil  
12 protection standards for all preserved farms, even  
13 though they are not quite as protective as we believe  
14 they should be. Thanks very much.

15 SUSAN PAYNE: Thank you, Amy. Next  
16 speaker on the list is Joseph Heckman. Mr. Heckman,  
17 are you on the line? Jess, do you have, um, any  
18 indication that Mr. Heckman is on the line?

19 JESSICA UTTAL: No.

20 SUSAN PAYNE: Okay. Not hearing from  
21 Mr. Heckman, we'll move on. Uh, next person on the  
22 list is Bob Hornby.

23 BOB HORNBY: Good evening. Can you  
24 hear me?

25 SUSAN PAYNE: Yes, we can.

1                   BOB HORNBY: Hi. Uh, I'm Bob Hornby.  
2 I'm administrator for the county, the Hunterton  
3 County Agricultural Development Board. I'd like to  
4 forward some thoughts on behalf of the board. There  
5 are 483 preserved farms in Hunterton County covering  
6 36,500 acres restricted in perpetuity. Hunterton  
7 County holds the easements on 324 of these farms.  
8 The SADC Hunterton County and the landowners agreed  
9 to the terms of the easement at the closing and the  
10 Hunterton CABD feels strongly that those terms, like  
11 the easement boundaries, should not change over time.  
12 More than half of the Hunterton farms have been  
13 preserved for more than fifteen years and many have  
14 changed hands since preservation. Financial  
15 decisions have been made based on a common  
16 understanding of the easement terms. It erodes faith  
17 in the program when the terms are subject to change.  
18 Easement restrictions should be clearly stated in the  
19 easement and not hidden in a rule book. The 100 CADB  
20 has been supportive of federal easements that have an  
21 impervious cover limit that is clearly included in  
22 the easement as paragraph 15C2 and confirmed by  
23 survey. Hunterdon CABD is supportive of a similar  
24 amendment to future easements. The Hunterdon CADB is  
25 not supportive of the current soil standards applied



1 retroactively based on an interpretation of out of  
2 date aerial imagery. Hunterdon has been a leader in  
3 the preservation program, is home to a viable  
4 agricultural economy, and contains excellent soils  
5 for farming. While 36,500 acres are already  
6 preserved Hunterdon CADB feels that there are still  
7 good farms that warrant preservation. I spoke to one  
8 of those farm owners Friday and was sadden to hear  
9 that she had no plans to preserve and that her lack  
10 of faith in the program has been spurred by the soil  
11 standards debate. The Hunterdon County Agricultural  
12 Development Board feels strongly that continued faith  
13 in the Farmland Preservation Program is rooted in the  
14 understanding that contracts have meaning and what is  
15 signed today or thirty-five years ago will not change  
16 abruptly. Terms and conditions between parties in a  
17 contract need to be upheld and not subject to  
18 retroactive change. Failure to honor that principle  
19 has the potential to permanently erode confidence and  
20 undermine the farmland preservation for years to  
21 come. On behalf of the Hunterdon County Agricultural  
22 Development Board, I'd like to thank you for your  
23 time and attention.

24 SUSAN PAYNE: Thank you, Bob. Next  
25 person on the list is Casey Jansen. Casey, are you

1 on the line?

2 JESSICA UTTAL: I do see them on, but  
3 they need to mute themselves or un-mute themselves.

4 SUSAN PAYNE: On the phone?

5 JESSICA UTTAL: The computer.

6 SUSAN PAYNE: Okay. Casey, if you can  
7 hear us, can you un-mute yourself on TEAMS? Okay,  
8 not hearing Casey, we will come back to him. Um,  
9 next person on the list is Mitchell Jones.

10 DAVID NEAL: Hi. Actually, this is  
11 Mitchell's son-in-law, David Neal. I'll be making  
12 the comments for Mitchell on behalf of the Warren  
13 County Board of Agriculture.

14 SUSAN PAYNE: Thank you.

15 DAVID NEAL: He, actually, had two  
16 meetings at once and couldn't be in two places at  
17 once. Um, while we appreciate the work done by the  
18 State Agricultural Development Committee on the  
19 proposed soil protection standards, we find that the  
20 rule is objectionable. These rules are retroactive  
21 in nature and impose land use regulations beyond the  
22 assessment to prevent development. These prop --  
23 proposed changes are undermining support for the  
24 state's Farmland Preservation Program. These new  
25 standards, if adopted, would only apply -- should

1 only apply to new applicants. The rule as written  
2 applies retroactively imposing new terms to the  
3 existing easement. The current preserved landowner  
4 made a monetary decision based on their current deed  
5 of assessment or -- I'm sorry -- Deed of Easement.  
6 These new rules restrict, at a minimum, eighty-five  
7 percent of agricultural development potential. As  
8 agricultural is an evolving industry this may  
9 seriously harm its viability in New Jersey. There  
10 hasn't been any consideration given to the economic  
11 impact to these farms which these rules would apply  
12 to. There should be a comprehensive economic impact  
13 study done to clarify -- clearly determine the  
14 affects these new standards would have. This would  
15 include a side-by-side study of projects on farms  
16 with the existing requirements versus the  
17 requirements set forth in the new standard. The, uh,  
18 Supreme Court mandate was to require a clear  
19 definition of what was wrong with the mishandling of  
20 soil. The disturbance -- um, sorry -- and the  
21 disturbance of soil. The Dan Hollander case, these  
22 standards stray way beyond that mandate. Paragraph  
23 seven of the Deed of Easement already addresses soil  
24 conservation. The deed further states, the farm  
25 owner shall obtain a farm conservation plan approved

1 by the local soil conservation district. Um, the  
2 Warren County Board of Agriculture does not support  
3 the enactment of this new rule. Thank you.

4 SUSAN PAYNE: Thank you. Next speaker  
5 listed is Mary Knowlton.

6 MARY KNOWLTON: Hear me?

7 SUSAN PAYNE: Yes, we can.

8 MARY KNOWLTON: Can you guys hear me?

9 SUSAN PAYNE: Yes.

10 MARY KNOWLTON: Wonderful. I'm Mary  
11 Knowlton and I'm speaking as the president of the  
12 United States Hunter Jumper Association. The USHJA  
13 is the recognized affiliate to our national governing  
14 body, the United States Equestrian Federation. These  
15 organizations are responsible for recognized horse  
16 sports in the US which span from breeding, through  
17 overseeing the US olympic team. The agricultural  
18 production of horses for sport is protected under the  
19 New York, New Jersey farm law and is an important and  
20 historic industry in New Jersey. Equine agriculture  
21 takes many forms, and those forms are connected by  
22 the need to have different infrastructure than most  
23 farmers. We need riding rings, performance areas,  
24 cross-country courses, horse paths, dabbling barns  
25 and tents, farm lanes, parking and effective

1 storm-water control. In some cases, the  
2 infrastructure involves competition areas, such as  
3 those occurring at the New Jersey Horse Park, which  
4 is controlled in part by the New Jersey Department of  
5 Agriculture and is located on land purchased by the  
6 New Jersey DEP with green acres conservation funding.  
7 New Jersey's Department of Agriculture is, therefore,  
8 very familiar with the economic value of sport horses  
9 in the State of New Jersey and its related  
10 infrastructure. Yet, when I look at these standards,  
11 I cannot recognize any considerations for such equine  
12 infrastructure, these -- these heavily favor  
13 production of plants while discriminating against  
14 equine. The proposed standards contain inherent  
15 policy inconsistencies which I will detail in my  
16 follow-up letter. Two things strike me. The first  
17 is that the preserved farms of New Jersey engaged in  
18 equine product -- in production would be struck a  
19 fatal blow. True breeding would not be impacted, but  
20 what is the point of breeding horses if horses cannot  
21 be developed through appropriate training, marketing  
22 and sales. Second, how long before the long arms of  
23 the government reach out to impact the nonpreserved  
24 farms? How long before the soil protection standards  
25 are incorporated into right-to-farm conditions on

1 nonpreserved farms, and municipalities insist on  
2 compliance with soil protection standards and  
3 right-to-farm cases. Production of New Jersey state  
4 animal, the horse, will be alarmingly impacted.  
5 These two points would send New Jersey's equine  
6 industry into a death spiral. I believe that soil  
7 conservation is the mandate to balance against  
8 agricultural development, not soil disturbance. I  
9 propose that the equine infrastructure be included as  
10 an exemption under the soil protection standards.  
11 Let's work together to focus on conservation, not  
12 disturbance of soil. For example, allow arenas and  
13 riding rings, so long as they are laid over soils and  
14 are pervious, allow tent areas for a duration that is  
15 equal to that which is permitted under New Jersey DEP  
16 and construction codes, so long as the areas may be  
17 maintained with soil suitable for vegetative cover.  
18 I am sure that the worthy members of the SADC were  
19 working hand in hand with leaders from the equine  
20 industry can work out a solution that is mutually  
21 beneficial to soil and equine agriculture. Thank you  
22 so much for your time.

23 SUSAN PAYNE: Thank you, Mary. Next  
24 speaker, um, from Somerset County, Walter Lane and  
25 Katelyn Katzer, asked to split, uh, the minutes, so,

1 Walter, the floor is yours.

2                   WALTER LANE: Thank you. Good evening  
3 and thank you for the opportunity to speak tonight.  
4 I'm Walt Lane. I serve as the Director of the  
5 Somerset County Office of Planning Policy and  
6 Economic Development. I'm going to ask my colleague,  
7 Kate Katzer, to provide some comments that were  
8 developed by a group of county, uh, CADB  
9 administrators, and then I will provide a few remarks  
10 on behalf of Somerset County, and I hope we could  
11 have maybe one or two more minutes since we are being  
12 combined into one, um, session, so, Kate, take it  
13 away.

14                   KATELYN KATZER: Atlantic, Cape May,  
15 Cumberland, Hunterdon, Mercer, Middlesex, Morris,  
16 Salem, Somerset and Sussex CADB submitted a joint  
17 letter yesterday, and I'm here to highlight the  
18 topics raised in that letter. We strongly object  
19 with the soil protection standards as proposed. We  
20 fear the proposed rules retroactively modify the  
21 provisions of the Deed of Easement of preserved farms  
22 throughout the state undermining and eroding the  
23 trust the SADC and the Cads have built within the  
24 agricultural community since 1983. Preserved farm  
25 owners agreed to restrict their land for agricultural

1 purposes in consideration of the Deed of Easement  
2 provisions in place at the time the property was  
3 preserved. The Quaker Valley decision states that  
4 the deed's terms must be read reasonably to achieve  
5 their aims so that one is not sacrificed for another.  
6 That requires the terms to be reconciled in a manner  
7 that a reasonable person would have understood at the  
8 time the parties agreed to the Deed of Easement. The  
9 proposed rules restrict and regulate generally  
10 accepted agricultural practices and activities on  
11 preserved farms to such a degree that no reasonable  
12 person would have understood the terms of the deed  
13 would include the proposed rules as written. Farmers  
14 that participate in the program today will be aware  
15 of these new restrictions, but farmers who preserve  
16 their farms or those who purchased a preserved farm  
17 prior to 2021 could not reasonably anticipate the  
18 additional restrictions now placed on their  
19 operations. When preserving the SADC and the CADB  
20 purchase only the nonagricultural development rights  
21 from a preserved farm owner. The SADC and CADB  
22 purchased the agricultural development rights. As  
23 such, the additional restrictions proposed in the  
24 rule take away from the agricultural development  
25 rights from existing preserved farm owners without



1 compensation. They did not surrender the right to  
2 develop the land for nonagricultural purposes. For  
3 this reason we recommend the proposed rules apply to  
4 new applications only. The dual goals of the ARTA  
5 are to promote and strengthen the agricultural  
6 industry and to preserve farmland. As such, the ARTA  
7 and the easement terms encourage the agricultural use  
8 of preserved farmland, which includes the  
9 construction of roads and buildings for -- for  
10 agricultural purposes. We feel that the proposed  
11 rules directly conflict with the purpose -- with the  
12 purpose of the ARTA and the general intent of the  
13 Deed of Easement language. Additionally, we feel  
14 that the proposed rules as written are unnecessary.  
15 Paragraph seven states that, any activity which would  
16 be detrimental to drainage, flood control, water  
17 conservation, erosion control or soil conservation is  
18 prohibited. The SADC's own data shows that only 3.5  
19 percent of preserved farms have utilized more than  
20 half of the disturbance allocated. The majority of  
21 our preserved farms already comply showing that  
22 paragraph seven is sufficient to address soil  
23 conservation issues. It's important to note that  
24 upon review of the individual farm maps we have found  
25 significant inconsistencies regarding disturb --

1 disturbance calculations. The satellite layer used  
2 to calculate existing disturbance is from 2020 and is  
3 already outdated. In some cases the satellite layer  
4 does not align with the survey, so that the exception  
5 areas and property boundaries are misaligned in some  
6 instances up to fifty feet. Aerial imagery and GIS  
7 special -- spatial data are used for informational  
8 purposes only and are not legally acceptable  
9 depictions of boundaries. How can new restrictions  
10 be applied to land based out -- based on outdated  
11 aerial photo calculations instead of official  
12 surveys? The agricultural industry in New Jersey is  
13 particularly threatened by rising cost, decreased  
14 land access, urbanization and has to evolve to  
15 maintain its viability. We feel these rules will not  
16 only restrict future agricultural development, but  
17 will cause serious harm to New Jersey's agricultural  
18 industry and viability. These rules will still steer  
19 landowners --

20 SUSAN PAYNE: Time.

21 KATELYN KATZER: -- away from  
22 preservation and towards development.

23 SUSAN PAYNE: Thank you, Katelyn. Is  
24 -- Walter, did you want to add some things?

25 WALTER LANE: Yes, please. Um,

1 Somerset County CADB shares the same concerns that  
2 the county -- CADB administrators raised as outlined  
3 as part of Kate's comments. Somerset County's  
4 preservation plan as well as our comprehensive  
5 economic development strategy, both elements of the  
6 county master plan, contain goals and strategies to  
7 ensure farming remains a viable industry. The rules  
8 as proposed will hinder the county's ability to meet  
9 the go -- these goals and implement these strategies  
10 and these plans. Right now we have over 2,300 acres  
11 across thirty-five farms in our preservation  
12 pipeline. This is the most amount of farms we've  
13 ever had in the pipeline at one time. The rules as  
14 proposed will force these farmers to reconsider  
15 participating in the Farmland Preservation Program.  
16 Please considering -- please consider revising the  
17 rule, proposed rules, to address the concerns that  
18 have been raised here tonight. Thank you for your  
19 time.

20 SUSAN PAYNE: Thank you, Walter. Next  
21 person on the list is Stephen, um, Makarevich?

22 STEPHEN MAKAREVICH: It's close enough.  
23 Can you hear me, Susan?

24 SUSAN PAYNE: Yes, I can. I'm sorry.  
25 Thank -- thank you.

1                   STEPHEN MAKAREVICH: No. That's quite  
2                   alright. I've been struggling with it since the  
3                   fifth grade. We're good. Um, so good evening,  
4                   everybody. My name is Steve Makarevich. I'm a  
5                   regional credit leader for Farm Credit East, and I'm  
6                   based out of our Flemington, New Jersey office. I'm  
7                   pleased to have the opportunity to present testimony  
8                   on this important regulation on behalf of Farm Credit  
9                   East. As a cooperative-providing credit financial  
10                  services to farms, forest product and fishing  
11                  businesses, Farm Credit East serves eight northeast  
12                  states providing nearly \$1.4 billion dollars in loan  
13                  commitments to our more than 1900 members in the  
14                  State of New Jersey with nearly 250,000 acres on  
15                  almost 3,000 farms protected. New Jersey's Farmland  
16                  Preservation Program has been highly successful at  
17                  protecting the state's natural resources and working  
18                  landscapes. This land is the foundation of the  
19                  agricultural industry in the state and contributes to  
20                  the quality of life for all. Food and agricultural  
21                  are also important to the state's economy. According  
22                  to Farm Credit East report, the northeast economic  
23                  engine, New Jersey agricultural sector generates 11.5  
24                  billion dollars in economic activity and supports  
25                  over 50,000 jobs when inputs, processing and

1 marketing are included. Farm Credit East supports  
2 the goal of protecting the soil and using appropriate  
3 conservation practices on preserved farms. In  
4 reviewing the proposed regulations, however, Farm  
5 Credit East is concerned with their potential  
6 economic impact on farms that are currently in the  
7 program, as well as those that may participate in the  
8 future. Specifically, we are concerned with the  
9 following aspects of the regulation. The retroactive  
10 application of these new rules to farms currently in  
11 the program that made improvements in good faith  
12 consistent with the Deed of Easement and whose  
13 property has been inspected throughout the years.  
14 The implications for existing farms that are found to  
15 be out of compliance in terms of what steps they will  
16 need to take to remediate the noncompliance and  
17 subsequent impact on the value of the property.  
18 While it is appropriate to provide limits on the  
19 amount of preserved land that can be disturbed, it is  
20 also important that farms are able to make the  
21 improvements necessary to remain viable. One of the  
22 great successes of the New Jersey program is, not  
23 only preserved farmland as a natural resource, but  
24 has helped to preserve the farms to stay competitive  
25 in today's challenging business climate. If

1 preserved farms are unable to make necessary  
2 investments and improvements, these rules could  
3 undermine the goal of the program if it results in a  
4 land not being actively farmed. The complexity of  
5 the new rules and the additional cost to determine  
6 compliance with them, along with the other  
7 restrictions, could negatively impact the current  
8 farms in the program and discourage prospective  
9 participants. In closing, these regulations have  
10 been in development for several years, and Farm  
11 Credit East and other agricultural organizations have  
12 raised similar concerns in the past. As a regulatory  
13 process has moved forward it does not appear that  
14 these views have been taken into account. So I would  
15 urge the SADC to consider the views being expressed  
16 tonight. Before implementing this rule to consider  
17 the impact of the rules on the economic viability of  
18 existing preserved farms and future participation in  
19 the program. Thank you very much.

20 SUSAN PAYNE: Thank you, Stephen. Next  
21 speaker on the list is Leah McCormack.

22 LEAH MCCORMACK: Thank you very much.  
23 Uh, thank you for allowing me to speak this evening.  
24 Um, my brother and I own and operate a preserved farm  
25 in Middletown. I also own a preserved farm in New

1 Egypt. Uh, I purchased that farm in New Egypt at an  
2 auction, uh, run by the, um, SADC, and when I  
3 purchased and signed that easement I was agreeing to  
4 a contract that was -- was, uh -- included the rules  
5 and regulations on that date. When my brother and I,  
6 uh, agreed to preserve our family farm in Middletown,  
7 which has been, uh, in our family since 1880, um, we  
8 also agreed to -- to the rules and regulations that  
9 were existing at that time. A contract is a  
10 contract. I know of no contract that can be  
11 unilaterally and retroactively changed by only one  
12 party to a contract. I think that the SADC can have  
13 rules that go forward that are in the deeds of people  
14 who join the program from now on, but there should be  
15 no retroactivity. I think that that raises a big  
16 legal question. Uh, I think it causes loss of trust,  
17 uh, in -- in the state. While we have always tried  
18 to be very good stewards of the land and you people  
19 say, well, this soil disturbance, uh, isn't such a  
20 big deal. Uh, the thing is, what's coming next? I  
21 think it would lead to people not wanting to  
22 preserve. I certainly wouldn't enter a contract that  
23 I would think could always be changed by the other  
24 party whenever they felt like it, and so I urge, uh,  
25 you not to adopt these, uh, rules, um, retroactively.

1 I think it represents a taking without compensation  
2 and I suspect that if you go forward with them there  
3 may well be legal challenges. Thank you for  
4 listening to me. Have a good evening.

5 SUSAN PAYNE: Thank you. Next speaker  
6 is William McCormack.

7 WILLIAM MCCORMACK: My name is William  
8 McCormack, Middletown Township, Monmouth County. Can  
9 you hear me?

10 SUSAN PAYNE: Yes, we can.

11 WILLIAM MCCORMACK: Thank you. Uh, we  
12 are a multi-generation preserved family farm having  
13 been located on the same property since 1880, and  
14 I'll reiterate what my sister has just said. A  
15 contract is a contract. No one knows the future of  
16 agricultural, and changes to a signed contract may  
17 have an adverse impact on farm viability. I urge you  
18 not to adopt this, and if you feel these are  
19 necessary, it should only be for individuals and  
20 families that are going to preserve their farms in  
21 the -- in the future. The changes should not apply  
22 retroactively. A contract is a contract. Thank you.

23 SUSAN PAYNE: Thank you. Next speaker  
24 listed is Robert McNinch.

25 ROBERT MCNINCH: Uh, good evening,



1 everyone.

2 SUSAN PAYNE: Good evening.

3 ROBERT MCNINCH: Due to the four-minute  
4 limit, uh, my comments are abbreviated. Uh, I own a  
5 130 acre nonpreserved hay farm. Uh, from a farm  
6 owner viewpoint I share all the objections, uh, just  
7 heard from the farm community. The proposed rules as  
8 written are objectionable. Who are the stakeholders?  
9 There are two groups of stakeholders, the owners of  
10 the approximately 2,900 currently preserved farms and  
11 the owners of farmland that may be preserved in the  
12 future. Two, the state taxpayers who fund the SADC.  
13 The county taxpayers were applicable who fund county  
14 share of the cost or preservation and the municipal  
15 taxpayers were applicable who fund the municipal  
16 share of preservation. Let's look at the proposed  
17 rules through the eyes of a municipal taxpayer that  
18 funds the municipal share of the preservation.  
19 Municipal funding in most cases was approved by  
20 referendum, uh, containing a simple statement, uh,  
21 noting the purpose of funds is to purchase property  
22 easements or development rights for the preservation  
23 of farmland. The offer to purchase farmland  
24 development rights is always based on tillable soil.  
25 It follows that the representation to the taxpayers

1 is that tillable soil is being preserved which is  
2 then reinforced by the Deed of Easement's statement  
3 that no activity that is detrimental to soil  
4 conservation is permitted. The proposed rules, if  
5 followed, would result in preserved farms  
6 post-preservation having substantially less tillable  
7 soil than required for preservation in the first  
8 place. So let's look at the potential public impact.  
9 The public at -- at the municipal county and state  
10 level have been very supportive of Farmland  
11 Preservation Program as they believe they are  
12 supporting farmers and preserving the land and water.  
13 It is a concern that by formalizing it is okay to  
14 lose 100 percent of tillable land on a small  
15 four-acre preserved farm or, uh, twenty-to-thirty  
16 percent on a twenty-acre farm or twelve-to-fifteen  
17 percent on a preserved farm greater than twenty-eight  
18 acres that -- that will result in loss of public  
19 support if that is advertised and, uh, covered in  
20 various newspapers. In conclusion, uh, as a  
21 stakeholder and supporter of farmland preservation, I  
22 would, respectfully, ask you to consider your  
23 proposed regulations. New regulations should have  
24 buy-in from both the owners of preserved farms and  
25 the taxpayers who funded their preservation. These

1 new rules will be problematic, uh, both for the  
2 farmers who have preserved their land or for the  
3 taxpayers who believe they are preserving tillable  
4 farmland. Thank you very much.

5 SUSAN PAYNE: Thank you, Robert. Next  
6 speaker is Patrick O'Connell. Is Mr. O'Connell  
7 present in the meeting? If so, please un-mute  
8 yourself. Jess, do you see, um, Mr. O'Connell  
9 present?

10 JESSICA UTTAL: I do not, unless he's  
11 on the phone.

12 SUSAN PAYNE: Okay. Alright. Um,  
13 we'll move on. Uh, next speaker is Andrew Philbrick.  
14 Andrew, can you, um, mute -- un-mute yourself? We're  
15 still seeing you as muted and we can't hear you. Do  
16 you see that Mic icon at the top of your screen,  
17 because we, uh -- you still seem muted to us and we  
18 can't hear you. Alright, Andrew, I'm gonna let you  
19 see if you can figure that out on your end. We will  
20 come back to you. Um, next speaker is Robert Puskas.

21 ROBERT PUSKAS: Can you hear me?

22 SUSAN PAYNE: Yes, we can.

23 ROBERT PUSKAS: Okay. Uh, before we --  
24 till my time starts, um, I want to say that I am the  
25 Chair of the Franklin Township AG Advisory Committee

1 and also the Chair of the Franklin Township Open  
2 Space Committee, but I will be commenting on our, um,  
3 own family farm here in Somerset. Uh, to give a  
4 little background history of our farm before we start  
5 into this, we were the first farmers in Somerset  
6 County to have a soil conservation plan. We were  
7 given an award for that back -- many years ago. We  
8 preserved our farm with the understanding that we  
9 could expand our operation as long as it -- it  
10 pertained to agricultural uses that was either farm  
11 buildings and or farm labor housing. In doing so we  
12 in the last ten years, we expanded by putting up two  
13 new barns, one with the soil conservation service  
14 funding and guidance, and those two buildings now has  
15 put us out of compliance. I don't know how the SADC  
16 can figure the young generations of new farmers  
17 coming on could afford to buy farms that are big  
18 farms, and this rule is going to hurt the small  
19 farms. We're only twenty acres and we're out of  
20 compliance and we -- because twenty-some years ago  
21 the State of New Jersey condemned half our farm for  
22 non -- nonexistent water reservoir. Um, it's -- this  
23 is going to cripple the program. It's going to  
24 cripple young people from wanting to get in. Uh,  
25 agriculture has changed dramatically over the last

1 twenty years. It's going to change faster down --  
2 going down the road. If a young gener -- my nephew  
3 wants to take a farm. He's thinking now maybe with  
4 these rules he would not because he knows if he wants  
5 to expand a heifer operation or a different  
6 operation, he wouldn't be able to do it on a farm.  
7 It's -- it's, uh -- this is not capitalism which our  
8 country was built on. This is socialism. We signed  
9 a contract that said what we could do. Now the SADC  
10 wants to change his contract. Uh, this -- and the --  
11 and this rule goes against the Right to Farm Act,  
12 especially the Franklin Township Right to Farm Act,  
13 which was enacted, uh, and copied from the State  
14 Farm -- uh, Right to Farm Act, so the future -- the  
15 future of the program is in dire -- dire straits with  
16 this going on, and I wish everybody listens to all  
17 the -- the part -- the former comments were --  
18 they're all right. They all talked about the right  
19 thing. This may lead into legal complications for  
20 the SADC because you're breaking a contract, you  
21 know, you -- to talk about -- and this -- let's call  
22 this what it is. This is not soil protection  
23 standard. These are -- this is, um, impervious  
24 coverage standards because all your barns and  
25 driveways and stuff are part of impervious coverage

1 and that's all in his standard. And driveways -- our  
2 driveway was put in by God 100 years -- more than 100  
3 years ago. This farm is going to be a century farm  
4 in our name in six years to come if we can stay here  
5 and expand our operation. Thank you for your time.

6 SUSAN PAYNE: Thank you, Robert. Next  
7 speaker on the list is Jim Specca.

8 JIM SPECCA: Uh, hello. I don't know  
9 if you can see me or hear me.

10 SUSAN PAYNE: Yes.

11 JIM SPECCA: Um, alright. I've chosen  
12 to speak before the hearing today to appeal to the  
13 SADC, not to betray the trust of the farming  
14 community. Farmland preservation programs are  
15 originally designed as a planning tool for farming  
16 families to ensure they could continue to farm,  
17 continue farming in a state with a huge disparity  
18 between farmland values and the value of that land  
19 for other uses. Many landowners sign up for the  
20 program using the parameters of their contract to  
21 plan out their financial futures. Every single line  
22 item restriction on that contract placed on the land  
23 has an associated financial opportunity cost to that  
24 landowner. When the contract language changes, it  
25 also changes the financial picture of the landowner.

1 Farming is a capital intensive limited profit  
2 business that often teeters on the edge of failure  
3 by, literally -- by, literally, a few dollars and  
4 cents. Farming is also a constantly changing  
5 landscape that requires flexibility to remain  
6 competitive. While the SADC may have identified what  
7 they consider unacceptable conditions on preserved  
8 farmland, if those conditions are, in fact,  
9 considered necessary by the landowner to remain  
10 competitive in the farming business and within the  
11 parameters set in the original contract, then the  
12 SADC should have no authority to rework the contract  
13 and possibly place that landowner in conflict.  
14 Breaching the trust of the landowners who have  
15 arguably already given up far more than they have  
16 received from these contracts will set the  
17 precedence that could easily derail the entire  
18 Farmland Preservation Program. In many towns  
19 throughout the state, including my own, the Farmland  
20 Preservation Program, combined with the equally  
21 controversial highlands legislation, has already  
22 become nothing more than a terrible -- un -- terribly  
23 underfunded propaganda tool. Is being used by local  
24 conflicted politicians to institute restrictive  
25 zoning plans to depress land values for their own

1 personal benefit while costing landowners millions of  
2 dollars. Actual active farmers that have dedicated  
3 their lives to farming need to be the driving force  
4 behind planning for our future, not want to be  
5 farmers or friends of farmers that have very little  
6 understanding of the complexities of a running farm.  
7 Please take the advice of the soldiers in the  
8 trenches that fight the battle every day as opposed  
9 to the general perception of what farming should be.  
10 As a number of farmers in New Jersey dwindles we need  
11 more tools to remain competitive and less  
12 restrictions. My worst fear is that making  
13 retroactive changes to these contracts will, in fact,  
14 open those entire contracts through renegotiation and  
15 possibly void the entire contract. In a state where  
16 land prices are skyrocketing out of control, the  
17 financial incentive of the landowners to challenge  
18 these reworked contracts will be much greater than  
19 the SADC could ever afford to challenge. Leave well  
20 enough alone. Reword future contracts to your new  
21 standards if you choose, but be aware that every  
22 restrictive change has an associated cost that may  
23 not be acceptable to the landowners or the Farmland  
24 Preservation Program. Thank you very much.

25 SUSAN PAYNE: Thank you, Jim. Next



1 speaker on the list is Anthony Sposaro.

2 ANTHONY SPOSARO: Good evening. Uh, my  
3 name is Anthony Sposaro. I'm an attorney. I  
4 represent, uh, many farmers throughout the state.  
5 I've been asked to address the committee on behalf of  
6 the following, uh, farm owners and operators. Uh,  
7 their family names are [phonetic] Balste, Pasolla,  
8 both Anthony and Carmine, Davis, Gasco, Bort, Styler,  
9 Hadad, Verdie, Martin, Verba, Forand, Brohnsteiner,  
10 Caragette, Deetz, Schnetzer, Pesque, Deetz, Van Vugt,  
11 Mueller, Uffet, Kane, Salomon, Abna, Sherman, and I'm  
12 sure there's more. Uh, as an attorney, I could  
13 advance several lea -- arguments setting forth why  
14 these regulations are vulnerable -- vulnerable.  
15 After all, that's what lawyers do, but others all  
16 have already done, so, and I won't take up the time  
17 to do so. Suffice it to say, that courts  
18 historically will defer to state agencies and their  
19 expertise, but courts also have been vigilant to  
20 protect the rights of property owners and to prevent  
21 government from infringing upon those rights. I  
22 cannot predict what the courts will -- would do  
23 should these regulations be adopted and challenged,  
24 and rest assured if they are adopted they will be  
25 challenged, but I can predict with absolute 100

1 percent certainty what will happen if these  
2 regulations are adopted. You, the committee, will  
3 forever lose the trust and confidence -- the  
4 agricultural community -- uh, of the agricultural  
5 community whose interest you were, uh, created, uh,  
6 to protect. Lawyers call that irreparable harm.  
7 Virtually, every farmer I speak to asks how can the  
8 committee adopt these regulations retroactively? Why  
9 am I being forced to pay for the misdeeds of others?  
10 If the committee adopts these regulations, what is  
11 next on their agenda? What else will come forward?  
12 I don't have any good answers. I don't have any  
13 answers to any of these questions, and I can assure  
14 you, uh, in response, uh, when I hear from committee  
15 or staff that there's only a very small, uh,  
16 percentage of farms that will be impacted by these  
17 standards. Uh, the -- the farmers I speak to are not  
18 at all appeased. Stripped of all the gloss, uh, the  
19 unvarnished soil protection standards are really  
20 impervious coverage limits. Soil compaction and  
21 impervious coverage, essentially, are one in the  
22 same. To be sure, the regulations, uh, recognize  
23 carve outs, for example, for farm lands where no, uh,  
24 of a certain size where, uh, material has --  
25 materials have not been added, but it's really no

1 different than, uh, than impervious cover. Uh,  
2 there's no universally accepted definition for  
3 impervious cover. In fact, it's not defined under  
4 the Land Use Act and -- and some towns treat, uh,  
5 impervious different from others. For example, some  
6 towns, uh, will, uh, recognize gravel as impervious  
7 while others do not. Limits on impervious cover  
8 ser -- serve a legitimate land use goal, but that is  
9 not your charge. Municipalities under the MLUL  
10 regulate land use by imposing impervious cover  
11 limits. You should not. Uh, for me, the ultimate  
12 irony as a farm lawyer is that the regul -- is that  
13 these regulations, uh, attempt to limit imper --  
14 intend -- limit impervious cover, and if a  
15 municipality was to impose impervious limit  
16 protections the RT -- the Right to Farm Act, would  
17 preempt those limits and say, uh, despite these  
18 limits farmers can go ahead and engage in certain  
19 activities. Yet, it's this agency, the very agency  
20 that's been empowered to administer the Right to Farm  
21 Act, that's imposing restrictions that towns, uh,  
22 could not legally impose and get to stick. How do  
23 you think that sits with farmers whether their, uh,  
24 farms are preserved or not. I think you all know the  
25 answer to that. The -- the draft regulations also

1       unfairly limit responsible farmers who are good  
2       stewards of the land from making optimum use of their  
3       preserved farms.

4                   SUSAN PAYNE:   Time.

5                   ANTHONY SPOSARO:  Uh, to -- uh, two --  
6       two examples come to mind, uh, greenhouses and equine  
7       operations.  Done responsibly prime soils can be  
8       protected without imposing impervious cover limits.  
9       Simply stated, these regulations are overkill.  
10      They're akin to tapping in a finishing nail with a  
11      sledgehammer.  Uh, there are surgical ways of  
12      addressing the problem.  Establish limits on the  
13      mixing or disposal of prime soils.

14                  SUSAN PAYNE:  Time.  Thank you, Tony.

15                  ANTHONY SPOSARO:  Okay.  In closing, I  
16      would just like to say that this committee has worked  
17      hard on these regulations, but it can do better.  It  
18      must do better.  Uh, your credibility is at stake  
19      here.  You're at the crossroads.  Thank you.

20                  SUSAN PAYNE:  Next speaker is Patricia  
21      Springwell.

22                  JESSICA UTTAL:  Patricia is on the  
23      phone.  She probably needs to press Star 6 to un-mute  
24      herself.

25                  PATRICIA SPRINGWELL:  Hello.

1                   SUSAN PAYNE: Yes, we can hear you.

2                   PATRICIA SPRINGWELL: Okay. I would  
3 like to did -- ditto the testimony by Amy Hansen and  
4 the testimony by Robert McNinch. Now, for my own  
5 words, all this can be simplified by simply doing the  
6 right thing. The court said you need to help owners  
7 know what is the right thing. None of this commotion  
8 would be necessary if one owner didn't do the wrong  
9 thing. The court says we need to have standards to  
10 guide people to do the right thing. SADC is not the  
11 bad guy. All the contracts contain wording that say  
12 as approved by county ADC's and SADC. They are  
13 trying to do the right thing. A real farmer will do  
14 the right thing and protect the soils and make a  
15 viable farm financial, successful operation happen.  
16 A pseudo farmer doesn't care about the soil, just  
17 wants to do whatever they want. I have seen the  
18 abuse and lawyer'd up loopholes that nonfat farmers  
19 use who buy these properties and use them improperly.  
20 Taxpayers voted in 1980s for farms. They didn't  
21 vote -- I didn't vote for -- for, uh, commercial  
22 complexes that cover our precious soil. The Farmland  
23 Preservation Program is the last great protector of  
24 our fertile farmland, and SADC is trying to do that  
25 and has to do it because the court ordered it. Now,

1 I'd like to address the twelve percent. I would like  
2 to go back to the original proposal of eight percent.  
3 I feel twelve percent is an excess allotment for  
4 impervious covers, especially on large tracks. An  
5 example, on a 200-acre farm, twenty acres could be  
6 built on and developed. Twenty-four acres could be a  
7 big amount. It needs to be taken into consideration  
8 when applying any percentage that the percentage be  
9 based on portion of farm that is prime land, land  
10 that contains waterways, un-tillable soil,  
11 established building areas, mountainous areas,  
12 nonproductive fertile soil shall not be part of the  
13 calculation. Example: If you have a 200-acre farm  
14 and 100 acres is unproductive non-fertile land,  
15 applying the percentage to the total acreage would be  
16 an error. Impervious coverage should not be allowed  
17 on prime soil areas. Landowners were paid on the  
18 basis of soil quality. This agreement shall not be  
19 breached. All plans for permanent impervious  
20 coverage on preserved farmland shall be approved by  
21 both county and state agricultural committees before  
22 they are executed. I would like to, actually, see  
23 added into this, that replacement houses need to be  
24 built on footprints of former houses. Farmhouse size  
25 needs to be restricted. We can no longer allow large

1 mansions to be built on preserved farmland placed  
2 right in the middle of a fertile, uh, farm field.  
3 This present rampant practice is causing farmland to  
4 be out of reach for future farmers to be able to  
5 purchase them. We need to stop making our preserved  
6 farmland a cash cow for non-farmers. We need to  
7 protect our fertile soil and make preserved farmland  
8 affordable and protected for future real farmers. I  
9 believe that as far as the retroactive, real farmers  
10 wanted to protect their farms. They love their  
11 farms. They're into the soil. They've worked with  
12 the soil. They've taken care, especially these  
13 families that have had it for years. Thank you very  
14 much.

15 SUSAN PAYNE: Thank you, Patricia.

16 Next on the list Ryck Suydam. Ryck.

17 RYCK SUYDAM: Good evening, everybody.

18 Uh, to start, I'm twelfth generation here in  
19 county --

20 SUSAN PAYNE: Hey, Ryck, we're having  
21 trouble hearing you. Can you just make sure you're  
22 close to the Mic on your, uh, computer?

23 RYCK SUYDAM: If I knew where it was.

24 SUSAN PAYNE: Just probably the screen,  
25 just close to the screen.

1                   RYCK SUYDAM: Okay. Is that any  
2 better?

3                   SUSAN PAYNE: That's helpful. Thank  
4 you.

5                   RYCK SUYDAM: Okay. Uh, start over.  
6 Again, I'm twelfth generation -- here in -- um, spoke  
7 prior to me were much more eloquent, but I am --

8                   SUSAN PAYNE: I'm gonna have to stop  
9 you. We can't hear you. It's very muddled. Um --  
10 um, you can call in, if you'd like to, and maybe over  
11 the phone or if you have, uh, earphones that you can  
12 use to plug in that might help.

13                   RYCK SUYDAM: Okay. Let me find the  
14 phone number. Here we go.

15                   SUSAN PAYNE: So, Ryck, I can E-mail  
16 you the call-in information right now, if that would  
17 be helpful. Jess, I'm going to ask you to do that  
18 for Ryck, and we're gonna move on and, Ryck, we will  
19 come right back to you. Next speaker is Pierre Van  
20 Mater.

21                   PIERRE VAN MATER: Yes, I'm here. Can  
22 you hear me?

23                   SUSAN PAYNE: Yes, we can.

24                   PIERRE VAN MATER: Okay. Uh, I'm the  
25 owner of preserved farmland in Marlboro. Um, in



1 rev -- in reviewing my, uh, my farm map, which was  
2 supplied me by the SADC, I find errors and  
3 calculations which affect my baseline figures.  
4 Although I have no information regarding who did the  
5 mapping, I can only assume that it was done by  
6 drawing lines roughly on hard surfaces via satellite  
7 images that are several years old. In doing so  
8 several assumptions were made. The images are  
9 grainy, at best, which would be difficult to  
10 ascertain the true limits of this surfaces in  
11 question, as well as the validity of the conclusions  
12 brought forth. In my case, the state lists nine  
13 areas of disturbance. When I go to the map on the  
14 web -- state's web page and blow it up to get an even  
15 reasonable view of the areas involved, there are no  
16 references shown or given to be able to clarify each.  
17 While areas are listed, there is no scale to match  
18 them to, and several of the areas used to arrive at  
19 your destiny are invalid. Perhaps I was extremely  
20 ignorant at the time I applied for preservation, were  
21 in part misled, uh, on a county level in thinking  
22 that soil's disturbance issues would only come into  
23 play in future change in topography or grade and in  
24 changing a potential use of such lands under direct  
25 control of the SADC. To expect that calculations

1 using historic driveways was beyond the logical  
2 expectation. Before I signed the agreements, I  
3 specifically asked what was subsequently assured  
4 and -- and was subsequently assured that any  
5 resurfacing or paving operations -- operations would  
6 not be an issue as they would be all preexisting  
7 areas. Your current pro -- proposal contains  
8 seventy-seven pages of statutes and dialogue which in  
9 itself references sub -- subchapters of statutes. It  
10 would take days to backtrack to print the entirety.  
11 Farmland preservation has slowed down considerably in  
12 recent years, partially because of the restrictions  
13 promulgated by the SADC. The assessment criteria  
14 used by the state is extremely dated and unrealistic,  
15 particularly in Monmouth County. The state is  
16 offering roughly twenty percent of current land  
17 values. I was told that there was no baseline  
18 formula to determine a land value before starting the  
19 preservation process. There are near -- there are  
20 nearly no compar -- no current comparable farmland  
21 sales to determine a realistic value within my area.  
22 You have really, really have to love your land in  
23 order to turn it over for restrictions such that we  
24 are experiencing. I am the first generation in my  
25 family not to be a full-time farmer in Monmouth

1 County in the past 340 years. Um, our family farm,  
2 uh, years ago was a 350-acre dairy farm which gets  
3 swall -- got swallowed up, uh, by development, um,  
4 due to production costs and also, uh -- um, there was  
5 no farmland preservation or a -- uh -- uh, farm  
6 assessment factor at that point. So it disgusts me  
7 to see what is going on around me, particularly, when  
8 the changes are being made by those persons who have  
9 no connection to farming. Um, under your reference  
10 on page thirty nine, paragraph D of your Soil  
11 Protection Rule Proposal, I hereby request a -- a  
12 mapping reconsideration of the calculated extent or a  
13 signed classification of soil disturbance reflected  
14 in the copy of map -- mapping baseline as mailed to  
15 me in the un-postmarked and uncertified, uh, document  
16 which was dated Octob -- or August of 2023. As  
17 promulgated in your proposal rule, I will expect a  
18 final updated soil disturbance map for the premises  
19 to me, the grantor, enter grantee, within 120 days as  
20 stipulated therein. I, particularly, disagree with  
21 the rule change that pertains to past farmland  
22 preservation contracts. A deal is still a deal and  
23 you cannot change the language within a contract that  
24 has been filed with the county clerk. The cost to  
25 the state to litigate future claims would be

1 astronomical.

2 SUSAN PAYNE: Time.

3 RYCK SUYDAM: The grantors will not  
4 tolerate restrictions that would impact potential  
5 values on their properties in perpetuity. Good luck  
6 with finding future candidates for preserved lands.  
7 The Garden State is soon to be the land of warehouses  
8 and strip malls exclusively. Thank you.

9 SUSAN PAYNE: Thank you, Pierre. Next  
10 speaker on the list is, um, Arie Van Vugt.

11 ARIE VAN VUGT: Can you hear me okay?

12 SUSAN PAYNE: Yes, we can.

13 ARIE VAN VUGT: Okay. Good. Okay.  
14 Yes. So my name is Arie Van Vugt. I own Plainview  
15 Growers and with two locations, one in Pompton  
16 Plains. The other is in Allamuchy where -- that we  
17 own our preserved farms. Uh, this journey for me  
18 began in 1996 when I purchased my first, uh,  
19 preserved parcel of land. It was 145 acres, uh, but  
20 before I bought the land, I did my due diligence,  
21 went to Trenton SADC and made sure that if I  
22 purchased this land that we were going to be able to  
23 build greenhouses and expand on this property. Uh,  
24 we were given the green light, um, and according to  
25 the, um, the -- the contract that we signed, again

1 like everybody's been speaking about this evening,  
2 um, we went ahead and we began our ex -- our, um,  
3 beginning of our expansion in Allamuchy. Uh, over  
4 the years we purchased another three farms that were  
5 basically bordered my property, so we have a total of  
6 345 acres of preserved land now. Um, and I also  
7 have -- we have -- um, four of my sons are in  
8 business with me. There's a next generation. It's  
9 being set up now as we speak, that these -- these --  
10 this next generation hopes to take over the company  
11 at some point, and when I see these restrictions on  
12 this land it is extremely discouraging, okay, because  
13 we are, actually, in a, um, in a growth mode. We're  
14 in an expansion mode. The company's doing very well.  
15 Uh, we have customers that are expanding and we are  
16 expanding along with them. Knowingly -- knowing all  
17 along, up until now with these new proposals, that we  
18 had no issues moving forward with building more  
19 greenhouses on this property. When I -- when I look  
20 at these, um, these baseline soil disturbance maps,  
21 they're, actually, very disturbing and it's -- what  
22 we -- we're over -- we're over the limit, as we  
23 speak, okay, so we have four preserved farms that,  
24 basically, now are over the limit. There's one that  
25 we might be able to build some percentage on it, but

1 that's it. So that means that if that limits my  
2 company to stop building and expanding our company  
3 for the future generations, it is completely, totally  
4 unfair, and to what really bothers me, is that when  
5 you think about this, you really clearly think about  
6 this, I mean, there's a handful of farmers on this --  
7 on this call. You're talking about 3,000 farmers  
8 that are preserved, okay. I guarantee you ninety  
9 five -- ninety-nine percent of these farmers agree  
10 with every one of these people -- every one of us  
11 that are speaking here tonight, that this is totally  
12 unfair and unreasonable and the only reason is  
13 because one farmer, okay, who believes he's above the  
14 law, okay, goes ahead and cuts seventeen feet out of  
15 preserved farmland. He thinks he's above the law.  
16 He gets pulled -- he gets pulled on the carpet and  
17 3,000 other farmers have to suffer for it.  
18 Completely unfair, and I'm asking you to please  
19 reconsider this, okay? When -- when you look at --  
20 when you look at this last thing, there's a  
21 conclusion on your papers that you sent out. The  
22 conclusion says, the proposed soil protection  
23 standards are designed to enable robust agricultural  
24 development and economic viability of prever --  
25 preserved farmlands. That's completely false, 100

1 percent false. That's -- that's going to destroy the  
2 economic viability of my farm and most of the people  
3 on this call tonight. I'm asking you, please  
4 reconsider this, okay? There's another -- we --  
5 we're -- we've -- we try so hard -- we've -- as --  
6 since we started my company on preserved land, we did  
7 pretty much everything above board permitting -- we  
8 went through --

9 SUSAN PAYNE: Time.

10 ARIE VAN VUGT: Okay. My time is up.  
11 I'm asking you, please reconsider. Do not make this  
12 re -- retroactive. Thank you very much for  
13 listening.

14 SUSAN PAYNE: Thank you, Arie. Next  
15 speaker is Nicole Voigt.

16 NICOLE VOIGT: Are you able to hear me?

17 SUSAN PAYNE: Yes.

18 NICOLE VOIGT: Uh, good evening. I'm  
19 Nicole Voigt, an attorney who represents preserved  
20 farm owners throughout the state involving the  
21 thousands of acres of preserved farmland. Just my  
22 currently active client number fifteen which involved  
23 pres -- even more preserved farms. I'm not speaking  
24 on behalf of any specific client this evening, but is  
25 an attorney tasked with the increasingly complex

1 challenge of guiding my clients and navigating the  
2 Farmland Preservation Program. Please bear with me  
3 as I'm very much actively sick with Covid and  
4 speaking is very difficult right now.

5 SUSAN PAYNE: I'm sorry to hear that.

6 NICOLE VOIGT: Thank you, Susan. Um,  
7 the majority of my comments will be submitted in  
8 writings, so I will only highlight a few high-level  
9 points. First, in accordance with the APA, the SADC  
10 must afford additional time for comment to allow  
11 submission of additional -- to allow sub --  
12 submission of additional rule-making comments by  
13 interested parties. This is necessary in part  
14 because, first, some farmers have not timely received  
15 their proposed soil disturbance maps in an adequate  
16 time remains in the rule-making comment period for  
17 meaningful participation. Second, maps were prepared  
18 based upon data more than two years old and contain  
19 categorization errors. This is likely to result in  
20 confusion or misunderstanding of what the impacts of  
21 the rule proposal is. It is hard to imagine a soil  
22 disturbance regulation withstanding judicial scrutiny  
23 after those affected are provided inaccurate maps  
24 that misrepresents what is and is not soil  
25 disturbance. Next, the proposed rules exceed the



1 SADC's legislative authority and mandate, which I  
2 will briefly address further in written comments.  
3 The proposed rules should be withdrawn. They do not  
4 promote a variety of agricultural practices, and  
5 instead discriminate -- discriminate against many  
6 forms of agricultural production and against  
7 protected agricultural practices, such as production  
8 dependent upon infrastructure, such as equine and  
9 greenhouses and protected agricultural management  
10 practice, such as on-farm direct marketing activities  
11 and events. The pro -- proposed rules also contain  
12 inherent policy inconsistencies without a rational  
13 basis, such as treating tents on fields in a manner  
14 that is somehow more restrictive than parking  
15 vehicles on fields. The soil dist -- disturbance  
16 limits are a breach of contract, which contract is  
17 the agricultural development purchase contract and  
18 the easement and are taking of the agricultural and  
19 housing development property rights without just  
20 compensation. Further, the failure to exempt housing  
21 relocation and RDSOs alone moves the needle on  
22 property valuations and the appraisals which  
23 supported, not only the SADC's acquisition price, but  
24 also the appraisals which support existing and future  
25 mortgage loans, a farmer's real estate asset value

1 will be decreased while mortgage loans remain in  
2 full. The proposed rules will have a chilling effect  
3 on not only agricultural development, but also  
4 farmland preservation and they most certainly will  
5 result in litigation. It is important to note that  
6 ARTA and the SADC's own testimony before the Supreme  
7 Court and Quaker Valley Farms acknowledged that  
8 agricultural development may disturb soils so long as  
9 the disturbance is reasonably balanced against soil  
10 conservation. Reliance on the Quaker Valley Farm's  
11 decision which involved allocations of total soil  
12 destruction, to create a soil protection mandate is  
13 misplaced. The New Jersey Supreme Court's decision  
14 quoted the SADC's resource conservation witness'  
15 testimony. Through that testimony the SADC provided  
16 evidence of how large-scale disturbance may occur  
17 which evidence was compared to the total destruction  
18 of soil and which was cited by the Supreme Court in  
19 discussing what is and what is not reasonable soil  
20 conservation. The point is that --

21 SUSAN PAYNE: Time.

22 NICOLE VOIGT: -- artist soil  
23 conservation mandate is not the same as limiting soil  
24 disturbance. Rather than enabling a wild variety of  
25 farmers to engage in agricultural development

1 balanced by soil conservation planning, the SADC  
2 holds the keys to the kingdom and puts farmers under  
3 a de facto conservatorship whereby it limits and  
4 manages the farmer's productivity and improvements  
5 through a time-consuming, costly, complicated and  
6 uncertain waiver process at best. In sum, the  
7 proposed rules represent a leap from the concept of  
8 permissible agricultural development balanced against  
9 reasonable soil conservation to the much more  
10 stringent concept of arbitrary limits on soil  
11 disturbance which breach contract --

12 SUSAN PAYNE: Time.

13 NICOLE VOIGT: -- property rights  
14 without legislative authority and they must be  
15 withdrawn.

16 SUSAN PAYNE: Thank you, Nicole. Next  
17 speaker listed is Meg Whitehouse.

18 MEG WHITEHOUSE: Yes. Hi. Can you  
19 hear me?

20 SUSAN PAYNE: Yes, we can.

21 MEG WHITEHOUSE: Okay. Thank you very  
22 much. Um, I'm a livestock farmer, a very small  
23 operation in Farmingdale, New Jersey. I'm a member  
24 of the Monmouth County Board of Agricultural. Um,  
25 we're -- we're very concerned about the, uh, proposed

1 rule, uh, from the SADC. We -- I agree with the  
2 statements of my fellow farmers and colleagues of Pat  
3 Butch, Gary DeFelice, Leah McCormack, William  
4 McCormack, and -- and Pete Van Mater. I believe  
5 that, um, they've very articulately have set forth,  
6 um, the position of -- of -- of the farmers in  
7 Monmouth County. We, respectfully, understand that  
8 rule-making is within your purview, but we feel in  
9 this particular case that this rule-making is  
10 overreaching. Um, we're concerned that this appears  
11 to be, you know, it's obviously -- it -- it is  
12 retroactive application of the rules. On the  
13 original Deed of Easement between the farms who were  
14 in the Farmland Preservation Program, you know, could  
15 constitute a taking without any additional  
16 compensation. Um, you know, we're -- we're farmers.  
17 We understand the need for soil protection, but we  
18 also, uh, you know, we know how to manage things and  
19 we are -- we are doing our best, um, you know, to  
20 conserve the resources of our property because this  
21 isn't something that we do in -- in, you know, like a  
22 day, a week, a year, five years, uh, and we're going  
23 to be gone. We're -- you know, you've heard, uh,  
24 testimony from individuals who have farmed for  
25 generations and that their parents have farmed and

1 their grandparents have farmed and their  
2 great-grandparents have farmed and -- and we  
3 understand that, you know, I can appreciate as a  
4 hearing officer it's tough to hear, you know, a lot  
5 of what you're hearing tonight, but -- but we  
6 sincerely believe and we believe that you sincerely  
7 believe or -- or we hope that you do that -- that the  
8 future of farming in New Jersey is -- is -- is very  
9 important and we like to feel the support of our  
10 state government in continuing that we are the Garden  
11 State. I know that's kind of a cliché and we hear  
12 that frequently, but at the end of the day when you  
13 look at the amount of production farming and the  
14 livestock farming that goes on, and -- and where we  
15 stand in the actual numbers and in production of  
16 various fruits and vegetables, we do things that  
17 people should be very proud of, and in my mind, um,  
18 that's pretty much what we're -- we're talking about  
19 tonight. Um, we also fear that this -- these rules  
20 will have or this proposed rule will have a very  
21 negative impact on the Farmland Preservation Program.  
22 It may discourage farmers from participating in it.  
23 Um, we've heard people speak much more eloquently to  
24 this issue, uh, than I could ever do, so I'm -- I'm  
25 going to defer to that and also reserve to the

1 Monmouth County Board of Agricultural, um, they're  
2 going to be submitting a letter, um, you know,  
3 expressing the concerns of the membership and, uh, we  
4 do appreciate the time tonight to speak and I want to  
5 thank you very much, uh, for your attention. Thank  
6 you.

7                   SUSAN PAYNE: Thank you, Meg.  
8 Appreciate your comments. Okay. That concludes the,  
9 um, folks that we were able to get to. So we're  
10 gonna circle back and call names, um, of folks who we  
11 called on, but were not able to speak at that time,  
12 to give them a second chance to address us. So, um,  
13 Jess, the first person I have who was not able to  
14 speak was George Asprocolas. Is that right? So, um,  
15 is there any, uh, evidence Mr. Asprocolas on the  
16 phone?

17                   JESSICA UTTAL: I do not see him.

18                   SUSAN PAYNE: Okay. Alright. Um, the  
19 next person I think was Jack Galiczyski.

20                   JESSICA UTTAL: Yes.

21                   SUSAN PAYNE: Still have that name  
22 wrong, I'm sure. Jack, you are on the call? Okay.  
23 Hearing nothing, um, I think the next person was, uh,  
24 Joseph Heckman. Mr. Heckman, are you available to  
25 speak? Okay. Un, next person was Patrick O'Connell.

1 Is Mr. O'Connell with us on the call?

2 JESSICA UTTAL: I'm sorry, Susan. I  
3 have Casey Jansen did not get a chance to speak.

4 SUSAN PAYNE: Okay. I do see them in  
5 the meeting. Um, but they are not un-muting  
6 themselves. Yeah. Maybe he can't. Casey, if you're  
7 there, if you can un-mute yourself, um, by pressing  
8 Star 6, if you're on the phone or the Mic icon, if  
9 you're on TEAMS. Okay. Um, Jess, who do you have  
10 next then?

11 JESSICA UTTAL: Patrick O'Connell.

12 SUSAN PAYNE: Mr. O'Connell, are you  
13 present? Okay. Hearing nothing, Andrew Philbrick.  
14 Andrew, it looks like you might be able to join us  
15 now.

16 ANDREW PHILBRICK: Yes, Susan. Can you  
17 hear me?

18 SUSAN PAYNE: Yes, we can.

19 ANDREW PHILBRICK: Wonderful. Thank  
20 you. Microsoft TEAMS is not my area of expertise,  
21 but not a computer. My name is Andrew Philbrick. Im  
22 the owner of a 100-acre preserved equine farm which  
23 is part of a larger three-farm unit in Somerset  
24 County. I'm a lifelong professional New Jersey  
25 equestrian, equine farmer, and I wholeheartedly agree

1 with the Alstede family, their objections and the  
2 objections of many, many others on this call tonight.  
3 I need to point out that I did not receive proper  
4 notice for this meeting nor was I sent a soil map for  
5 my farm. To add insult to injury, I had an E-mail  
6 this afternoon, late this afternoon, from SADC staff  
7 asking to have a site visit next week on my farm to  
8 see if the soil disturbance map was accurate. This  
9 is not a way to interact or inform farmers, nor is it  
10 a way for us to prepare any kind of understanding of  
11 this complex, uh, proposal. Our legislature seeks to  
12 make ownership and operation of a preserved, uh, farm  
13 financially viable. The SADC through overregulation,  
14 such as these proposed soil standards, appears to  
15 fight against the legislature's idea of what  
16 farmers -- farming is, can be and should be. Equine  
17 agriculture is a perfect example of this. Equine  
18 agriculture is financially viable, well suited to the  
19 poor clay and shale soil -- soil prevalent in many  
20 parts of our state, employs thousands of people and  
21 retains a significant part of our equestrian history  
22 and lifestyle. Our farmers are the true  
23 environmentalists. We now have a few radical  
24 environmentalists. Some masquerading as commercial  
25 farm advocates who ignore property rights, the



1 legislature and seek to write rules that limit New  
2 Jersey agriculture to unsustainable levels. Equine  
3 production requires infrastructure, traditional farm  
4 infrastructure. Horses need riding rings, stabling,  
5 all weather exercise areas and more. Without this  
6 infrastructure there is no equine production in New  
7 Jersey. These rules overreach, overregulate and will  
8 inhibit equine production on preserved farms and put  
9 a chilling effect on equine production and farm  
10 preservation. As farmers we want to preserve the  
11 topsoil and we can. We can operate on po -- poor  
12 clay and shale ground that is prevalent all over  
13 Central New Jersey. The soil protection tent  
14 restrictions are aimed directly at our equine horse  
15 stabling tents. New Jersey DEP and the state's own  
16 soil scientists says that we can have tents and  
17 maintain vegetative cover to conserve soil. Uh, this  
18 is no -- there is no difference between equine stable  
19 tents, except for inherent bias to the proposed rules  
20 for overflow parking in these proposals. It appears  
21 these regulations seek to eliminate equine farming on  
22 preserved land and that is the goal. The additional  
23 affect is to prevent growth of our equine program  
24 here. The den Hollander decision should not be used  
25 as a sword to put forward a radical soil protection

1 program. A far -- a far more global approach is  
2 needed and necessary. This soil protection scheme is  
3 shortsighted, one-size-fits-all and will damage the  
4 preserved farm program. It's against the stated will  
5 of the legislature and most of the farming community.  
6 I find it hard to believe that Governor Murphy and  
7 this board are -- are okay with these proposed  
8 radical soil regulations. They will dis -- they will  
9 damage New Jersey's farm families, the preserved farm  
10 program and the long and illustrious New Jersey  
11 equine industry. Make no mistake. That would be the  
12 result if these rules are adopted. Please  
13 reconsider. Thank you for your time.

14 SUSAN PAYNE: Thank you, Andrew.  
15 Alright, Jess, um, I have Ryck Suydam. Is there  
16 anyone else before Ryck that we were unable to  
17 reach?

18 JESSICA UTTAL: No.

19 SUSAN PAYNE: Okay, Ryck, can you press  
20 star and then six on your phone?

21 RYCK SUYDAM: Can you hear me now?

22 SUSAN PAYNE: Yes, we can.

23 RYCK SUYDAM: Okay. Um, technology is  
24 a wonderful thing. Hi, everybody.

25 SUSAN PAYNE: Uh, only when it works.

1                   RYCK SUYDAM: Yeah. I'm Ryck Suydam.  
2 I'm a twelfth generation farmer and our family  
3 preserved our farm in good faith. Uh, now, others  
4 tonight have been much more eloquent than I am, so  
5 I'm just going to boil it down. I object. My family  
6 objects to these new rules and, Madam Executive  
7 Director, you started this meeting by saying these  
8 are new rules, and to a previous speaker I want to  
9 point out that I am a real farmer, but I'm not  
10 ignorant that farming will continue to change, that  
11 it has changed on this farm in the past 300 years.  
12 First of all, and I'm going to be direct, retroactive  
13 is just wrong. Others have said a contract is a  
14 contract, and the attorneys are much better at this  
15 than me, and they're right too. Retroactive enacting  
16 of these new rules is just plain wrong and it creates  
17 mistrust in the SADC, and it will kill the program.  
18 Everybody says right. Please don't say that. Well,  
19 we've heard it from others. It will, if not hurt the  
20 program, kill the program, so if you are going to  
21 force these new rules upon us, as Mary Alstede said  
22 at the beginning of this meeting, you got to  
23 compensate us. If this is an additional restriction,  
24 just like the restrictions that we signed onto back  
25 then, if this is additional restriction, then you

1 need to additional compensate, pay us. So that's the  
2 bulk of my, uh, comments tonight, but please try to  
3 consider this: How do we encourage a new generation  
4 into agriculture which is going to be more advanced  
5 production to feed a hungry planet if you lump on  
6 these further restrictions to an existing contract?  
7 That's all I got.

8                   SUSAN PAYNE: Thank you, Ryck. Okay.  
9 Jess, can you put up the next slide? Thank you. So,  
10 um, as a reminder, um, the rule, uh, comments are due  
11 October 6th, um, and we just wanted to post here, uh,  
12 again the address if you wanted to send, uh, written  
13 comments via snail mail or -- or, of course, we're  
14 accepting comments, uh, E-mail to that E-mail  
15 address. Um, I want to thank everyone, sincerely,  
16 for your participation tonight, for your thoughtful  
17 comments, um, and please know that your comments will  
18 be taken, uh, into consideration by the entire  
19 committee, um, and that -- that's the purpose of  
20 having a public comment period, right? So, um, we --  
21 we understand how important this issue is. We -- we  
22 understand the perspectives that you've, um,  
23 expressed tonight, um, and -- and we will take them  
24 into consideration as the committee finds this way  
25 forward, uh, in resolving this issue. So, um, Joe, I

1 see you have turned your camera on. I didn't know if  
2 you had any concluding comments you wanted to make  
3 before we close the hearing.

4                   JOE ATCHISON: Well, I just wanted to  
5 thank everybody for attending, voicing your comments,  
6 and I wanted to thank SADC for hosting, uh, this  
7 public hearing this evening.

8                   SUSAN PAYNE: Okay. With that, thank  
9 you, everyone, and we will, uh, say good night.  
10 Thank you.

11                   (Whereupon, the proceedings were  
12 concluded.)

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I, LINDA JOYNER, a Transcriptionist, do  
hereby certify that the foregoing is a true and  
accurate transcript of the within proceedings, to the  
best of my ability.

I:\Documents\TinyTranMD\LINDA.BMP

LINDA JOYNER,  
Transcriber

Dated: December 6, 2023

